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MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF AN APPLICATION BY CANADIAN ARCTIC GAS
PIPELINE LIMITED FOR A RIGHT-OF-WAY THAT MIGHT BE
GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY
AND THE NORTHWEST TERRITORIES FOR THE PURPOSE OF THE
PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC
IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND
SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Hon. Mr. Justice T.R. Berger, Commissioner)

Ottawa, Ontario

May 6, 1974

PROCEEDINGS AT INQUIRY

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CANADIAN ARCTIC
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Ottawa, Ontario,

May 6th, 1974.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

THE COMMISSIONER: Can I have your attention and I will call our meeting to order this morning. I am going to read a statement that some of you have heard but many of you have not, that indicates the basis on which this inquiry is getting underway and the reason why I have convened these preliminary hearings in Yellowknife, Inuvik, and Whitehorse, and now in Ottawa.

I have been appointed by the Government of Canada by Order-in-Council dated March 21st, 1974 to conduct an inquiry into the social, environmental and economic impact of the proposed MacKenzie Valley Natural Gas Pipeline.

Canadian Arctic Gas Limited has applied to the Minister of Indian Affairs and Northern Development under Section 19(f) of the Territorial Lands Act for a right-of-way across Crown land in the Yukon and the Northwest Territories.

The inquiry I am to carry out is authorized by the Act. I am to consider the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories. I am to consider, as well, the measures which Canadian Arctic Gas Limited proposes to take to meet the specific social and environmental requirements of the expanded guide-lines for northern pipelines

1 tabled in the House of Commons on June 28th, 1972.

2 I am to report upon the terms and conditions that ought
3 to be imposed in respect of any right-of-way that might
4 be granted to Canadian Arctic Gas Limited. This inquiry
5 is unique in Canadian experience. I am anxious that the
6 people of the North and all other Canadians with an
7 interest in the work of the inquiry should have every
8 opportunity to be heard, and that the inquiry itself
9 should be thorough and complete.

10 I am therefore holding these
11 preliminary hearings because I want to hear submissions
12 regarding the way in which this inquiry ought to be
13 conducted. The headquarters of this inquiry will be in
14 the North, but the hearings will be held in the north
15 and the south.

16 I would like to hear your views
17 today regarding the places where the main hearings
18 should be held in the north and the south. I would like
19 to know how long you expect the presentation of your evi-
20 dence and your submissions at the main hearings will
21 take. I would like to have your views regarding the form
22 the hearings ought to take. And I would like to know if
23 you feel I should make use of inquiry officers.

24 I have written a letter last
25 month to Native organizations, environmental organiza-
26 tions, Arctic Gas and other interested parties inviting
27 submissions at these preliminary hearings. As I said in
28 that letter, an assessment group has been assembled with-
29 in the Government of Canada. The group is headed by
30 Doctor J.G. Fyles, Geological Survey of Canada Environ-

1 mental Engineering Co-ordinator. Doctor P.J. Rennie,
2 Canadian Forestry Service Adviser Forest Soils is head
3 of the environmental section within the group. And Mr.
4 E.E. Wick, Northern Programme Senior Economist is the
5 head of the Socioeconomic Section within the group.

6 The assessment group is review-
7 ing the application and the materials filed by Canadian
8 Arctic Gas Limited and will report on the extent to
9 which the Arctic Gas application meets the environmental
10 and social concerns set out in the expanded guide-lines
11 for northern pipelines. Its job will be to conduct an
12 assessment of the application that has been filed by
13 Canadian Arctic Gas Limited.

14 I intend to make the assess-
15 ment group's assessment and report available to all in-
16 terested parties in the inquiry, but the group's assess-
17 ment will not, of course, be binding in any way upon the
18 inquiry.

19 Doctor Fyles, Doctor Rennie and
20 Mr. Weick, the leaders of the assessment group, are here
21 at my invitation today and they will be prepared later
22 on to outline the work of the assessment group and to
23 answer any questions that you may have about the work of
24 the assessment group. They have, in addition, a list of
25 the people from the Government of Canada who constitute
26 the assessment group and that list is one that you may
27 have simply by asking them for it.

28 Now, this inquiry that I am con-
29 ducting concerns the people of the North and the environ-
30 ment of the North. Let me repeat how anxious I am that

1 everyone who wishes to be heard should be given a fair
2 opportunity to be heard.

3 Under the Order-in-Council of
4 March 21st, 1974, I am to lay down the rules of prac-
5 tice and procedure for this inquiry. I do not wish to
6 lay down any such rules until I have heard your views
7 about the way in which this inquiry ought to be conduc-
8 ted. That is why I am here today.

9 The way in which we will pro-
10 ceed today will be informal. There will be no sworn
11 testimony, no one will give evidence in the usual sense.
12 Those of you who have submissions, whether written or
13 oral, you will have every opportunity of presenting them
14 today and tomorrow, and if you will come forward when
15 your turn comes and sit down at the front, at the
16 table here, I would like you to do that. If you would
17 rather stand at one of these microphones, that is per-
18 fectly all right with me. We have arranged the tables
19 here at the front so that you will feel more comfortable
20 if you would prefer to make your presentation seated.

21 I should say that hearings were
22 held in Yellowknife on April 22nd and in Inuvik on
23 April 24th and in Whitehorse on April 25th. A number
24 of presentations were made there. If any of the organi-
25 zations or persons who appeared in the North are here
26 today and have anything further to say, I will certainly
27 give you every opportunity to be heard, but before we
28 get to you, we will call on the people who haven't al-
29 ready made submissions.

30 I take it that everybody here

1 can hear what I am saying. If you are having any diffi-
2 culty in hearing, just stand up and say so, and we will
3 see what can be done about it.

4 I should say that the Secretary
5 of the Inquiry, Mr. Meyers, is seated to my right. Mr.
6 Waddell is seated to my left. Mr. Waddell is Special
7 Counsel for Administrative Matters to the Inquiry.
8 Miss Hutchison, of the Inquiry Staff, is seated at the
9 table with me as well. And Professor Michael Jackson,
10 Doctor Rolf Kellerhals, and Doctor Gordon Davies of the
11 Inquiry Staff are here today as well.

12 Now, I am going to read out the
13 order in which I will call upon you to make your presen-
14 tations, and I hope it is agreeable that you should all
15 proceed in this order.

16 First of all, Mr. Wah-Shee
17 representing the Federation of Natives north of 60;
18 secondly, Mr. Templeton of the Environment Protection
19 Board; thirdly, Mr. Mosquin of the Canadian Nature
20 Federation; fourthly, Mr. Gibson of the Working Group on
21 Canadian Energy Policy; fifth, Mr. Osler of Pollution
22 Probe; sixth, Mr. Page representing the Committee for an
23 Independent Canada; seventh, Mr. Woodford who appears on
24 his own behalf; eighth, the Canadian Environmental Law
25 Association. And there has been a written submission by
26 the Canadian Scientific Pollution and Environmental
27 Control Society of Vancouver, and I will ask later on
28 that that be read into the record. And after that I
29 will hear from anybody else whose name doesn't appear on
30 this list. If you will all just be patient, I am

1 certain that we will get to you.

2 So, we will start with Mr. Wah-
3 Shee on behalf of the Federation of Natives North of 60.

4 Mr. Wah-Shee.

5 If you wish to stand at that
6 microphone, you certainly may, Mr. Wah-Shee, but if you
7 would rather be seated, we will fix it up so that you
8 can be heard on the microphone. At least, I hope we
9 can do that. What is your preference? All right.

10 MR. WAH-SHEE: My name is
11 James Wah-Shee. I am Chairman of the Federation of
12 Natives North of 60. I am President of the Northwest
13 Territories Indian Brotherhood.

14 I am making this presentation
15 on behalf of the Federation of Natives North of 60.
16 I would like just briefly to introduce the presidents of
17 the other organizations who are members of the Federa-
18 tion.

19 First is Chief Elijah Smith,
20 Chief of the Yukon Native Brotherhood and Chief of the
21 Yukon Council of Indians. And Joe Jacquot, he is the
22 President of the Non-Status Indian People of the Yukon.
23 And Taggart Curley, President of the Inuit Tapirisat of
24 Canada. And Richard Woodford, President of the Non-
25 Status Indians of the Northwest Territories. And Chief
26 George Kodakin from Fort Franklin, Northwest Territor-
27 ies.

28 I am pleased to make the fol-
29 lowing presentation on behalf of the Federation of
30 Natives North of 60, which group, as you are no doubt

1 aware, includes the following native organizations in
2 the region affected by the proposed pipeline: The
3 Council for Yukon Indians, representing all native
4 people with ancestral rights to the land in the Yukon
5 Territory. The Inuit Tapirisat of Canada representing
6 all Inuit people in Canada, including those in the
7 Western Arctic. The Committe for Original Peoples
8 Entitlement, a regional affiliate of Inuit Tapirisat
9 representing Inuit settlements in the MacKenzie Delta,
10 Beaufort Sea area of the Western Arctic, as well as
11 native people in general of that area, as requested.
12 The Metis and Non-Status Native Association of the
13 Northwest Territories representing all Metis and Non-
14 Status Native People of the Northwest Territories.
15 The Indian Brotherhood of the Northwest Territories
16 representing all Treaty Indians of the Northwest Terri-
17 tories.

18 In all, our combined member-
19 ship includes the vast majority of the people directly
20 affected by the proposed project. Submission:

21 As you are aware, sir, each of
22 our member organizations has independently made presen-
23 tation to you at earlier hearings held in Yellowknife,
24 Inuvik and Whitehorse. We do not see the need to repeat
25 these statements at this time, except to summarize the
26 main points in common, these being: (1) that there
27 should be no major development of the nature of the
28 pipeline prior to the settlement of the land claims of
29 the native people.

30 I might add two additional

1 points to the statement at this time. We wish to make
2 it very clear to other Canadians that when we speak
3 about our land claims, our main priority is our land.
4 We may seek compensation for usage of our land by other
5 people, but our main concern is the protection and recog-
6 nition of our land ownership.

7 Secondly, there is for us in
8 these hearings a very difficult contradiction because
9 of the above position, that the land settlement must be
10 achieved before we can consider a development such as
11 the pipeline. It is clear to us that the legitimacy of
12 these hearings is highly questionable insofar as you are
13 to deal with the matters of a right-of-way over our
14 lands. We have consistently opposed the notion that
15 these are Crown lands as specifically referred to in the
16 Privy Council Order initiating the inquiry.

17 Nevertheless, our experience
18 teaches us that we cannot ignore these hearings, as our
19 land rights have been ignored. We therefore seek to
20 participate, subject to these reservations, and we wel-
21 come the opportunity provided to our people, an opportu-
22 nity they have not had previously, to study and express
23 their views on this momentous proposal.

24 (2) Hearings must be held by
25 you personally in each community affected by the proposed
26 pipeline.

27 (3) That sufficient time, one
28 year at least, must be allowed to allow both the communi-
29 ties to be prepared for maximum participation and the
30 native organizations to review and assess the documenta-

1 tion filed in support of the application for the right-
2 of-way.

3 (4) That the native organiza-
4 tions must have financial support if they are to effec-
5 tively participate in the hearings and adequately pre-
6 pare the communities for the hearings.

7 Further to these points the
8 following are added as additional submissions to the
9 Commission as to the conduct of the hearings. Your
10 terms of reference.

11 We submit that your terms of
12 reference give you the following authority.

13 (1) That hearings cannot pro-
14 ceed if there is no documentation by the applicant be-
15 fore your inquiry on important matters such as but not
16 limited to the Corridor Concept including all pipelines,
17 Highways, railways, transmission lines, etcetera. Develop-
18 ments related to the pipeline which affect environmental
19 and socioeconomic questions, including the Great Bear
20 River Hydro Project, feeder lines and treatment facili-
21 ties, alternate routes for the right-of-way; alternate
22 modes of transporting natural gas, the effects of
23 national economic impact as it relates to the regional
24 economic impact, etcetera.

25 (2) The one condition which
26 could be recommended by this inquiry is that there should
27 be no right-of-way granted until there is a land settle-
28 ment acceptable to the native people.

29 (3) That a further condition
30 might be that no right-of-way should be granted if docu-

1 mentation filed and research conducted by the applicant
2 is insufficient.

3 (4) And that if this inquiry
4 concludes that the proposed pipeline is not in the
5 interests of the Canadians generally, and the native
6 people in particular, that no right-of-way should be
7 issued.

8 It is imperative that an early
9 ruling be made by you to clarify the scope of your terms
10 of reference, particularly as they relate to the above
11 matters.

12 In the event that you are not
13 prepared to make such a ruling without further arguments,
14 we would suggest that a hearing of a preliminary nature
15 be held at some time in the near future, at which time
16 extensive arguments could be presented as to the scope
17 of your terms of reference.

18 Timing of the hearings: It is
19 submitted by the Federation of Natives North of 60 that
20 it is necessary that before you commence your hearings,
21 that the following must have taken place.

22 (1) All material essential to
23 the application must have been filed by the applicant by
24 a specified date. The preparation for the hearings
25 requires that all participants must have all the material
26 at hand for review and assessment substantially in ad-
27 vance of the hearings.

28 (2) There must be full com-
29 pliance with the 1972 Pipeline Guide-Lines to the extent
30 that all documentation required be filed before the above-

1 mentioned time limit.

2 (3) The National Energy Board
3 material must have been filed.

4 (4) The Assessment Group can-
5 not complete its review and assessment without complete
6 documentation being filed and the findings of the Assess-
7 ment Group must be distributed to the participants to
8 these hearings significantly in advance of any hearings
9 as to permit time for the native organizations and other
10 participants to compare its results with the Assessment
11 Group and ensure distribution to the communities.

12 (5) That in addition to the
13 above, all other materials, research and findings rele-
14 vant to the question to be considered by this inquiry be
15 reviewed and assessed by the participants such as rele-
16 vant studies and reports of the Federal Government.

17 (6) The participants to these
18 hearings must have sufficient time to review and study
19 all material.

20 (7) The Federation is composed
21 of community based organizations whose first priority is
22 to ensure community participations in matters of concern
23 to our membership.

24 With regard to these hearings,
25 this means two things. First of all, the communities
26 must be provided with all the relevant information con-
27 cerning the pipeline and the means to study it with the
28 aid of expert advice, local field workers and additional
29 research where necessary.

30 Furthermore, the meaning of the

1 hearings themselves must be clearly explained and under-
2 stood by our people. This will require assessment of
3 the application's supporting material by expert consult-
4 ants and native field workers, so as to draw out infor-
5 mation specific to each community, information relevant
6 to each region, and major questions of concern stemming
7 from the likely impact of the proposed pipeline in both
8 environmental and socioeconomic terms.

9 This material, once summarized,
10 will require translation, an arduous time-consuming
11 process at best. Dissemination of the materials must
12 involve not only full time field workers but the use of
13 inter-community meetings, and also compulsory access
14 time on the C.B.C. Northern Service, to allow radio-
15 programming in the native languages informing the com-
16 munities and explaining material related to the people.

17 Secondly, effective participa-
18 tion by our people will require sufficient time to
19 account for our traditional ways of considering and
20 determining our stand on crucial matters. The community
21 process is the native communities approach to important
22 issues. These must be discussed by everyone while the
23 Elders, who are the original community consultants, must
24 be involved. Time must be allowed for the spread of
25 information by word of mouth and small groups and family
26 discussions. This is our way of handling matters of
27 grave concern. Important decisions are not made at one
28 sitting with the help of Roberts Rules of Order. Matters
29 of such importance must be thought out thoroughly, pro-
30 perly evaluated and discussed at large with others

1 before a consensus can be reached by all concerned.

2 From past experience we know
3 that it has been the common practice of companies,
4 government agencies and other organizations to fly out
5 one or two people to meetings and to expect them to
6 answer for their people without our usual process.
7 This is known as consultations. This practice is com-
8 pletely unsatisfactory.

9 Finally, inter-community meet-
10 ings must be allowed to take place at a time that is
11 seasonally appropriate, not during hunting, trapping or
12 fishing seasons, when the hunters and trappers are out
13 on their trap-lines, and not when it is convenient for
14 the companies and government people who see it as simply
15 being subject to their beck and call, but when it is
16 suitable to our communities, when it will truly involve
17 our people.

18 In conclusion, I would once
19 again like to express our gratitude for this opportunity
20 to express our views to this hearing.

21 And, sir, we have Chief George
22 Kodakin from Fort Franklin who would like to make a
23 statement in his own native language which will be
24 translated. Thank you.

25 CHIEF GEORGE KODAKIN:
26 (Interpreter - Addy Tobac).

27 Thank you very much. This is
28 the first time that I have been to a place where the
29 things that have been talked about is taking place and
30 for me to see with my eyes how it is done. In our land

1 we are poor and I am happy for the opportunity to talk
2 about some of the problems we have.

3 On our land we have nets and
4 guns that we make our living out of, meaning that these
5 are what provide us with the meals.

6 Where I come from in Fort
7 Franklin it is situated on the shores of the Great Bear
8 Lake. At the present time the only way that we make a
9 living in terms of hunting or fishing, fishing is the
10 foremost. We set our nets at the mouth of the river
11 where the lake flows into the Great Bear River. It is
12 our only means of meals. And we hear that at this time
13 there are plans to build dams on the Great Bear River.
14 We are poor. This is our only means where we gather our
15 food and it is hard.

16 The Great Bear River that we
17 talk about is the people's highway to travel back and
18 forth to each others community from Fort Franklin and
19 Fort Norman. And out of this River also we do our fish-
20 ing. The people are poor. There is very little employ-
21 ment. There is no wages. The people of Fort Franklin
22 have said, "No", in one voice to the proposed dams.

23 And also, between Fort Franklin
24 and the settlement of Fort Norman, both peoples say "No"
25 to the dams.

26 And on the question of land in
27 terms of the dams or pipelines, we say no to these
28 things until you have settled the land claims, because
29 the land is very important to us.

30 We had a meeting for four days

1 in Fort Franklin concerning the dams and the talk of the
2 pipelines, and at these meetings again the people still
3 said "No", that before you have these major develop-
4 ments, we want you to settle the land claims. And only
5 until then would we consider talking about the pipeline
6 or the dams.

7 You people, with your education
8 and your good jobs, and your way of living down south,
9 do not come up to our lands to see us the way we live
10 in our settlements. You do not see that we are poor.
11 It is very easy for you to decide on the issues that you
12 talk about, because all you have with you is money. It
13 is easy for you to fly up to our land to do whatever you
14 want to do with it in terms of exploration or seismic
15 lines or even flying in to there with your planes and
16 helicopters. And what we say about our land, how we
17 feel about it, how we make our living out of it, is
18 true, is honest. And that is what I am saying to you.

19 Even when you brought in your
20 money in the beginning before there was white people,
21 that money did not make us any richer or provide us
22 with better living. If we were poor before money, we
23 are poorer now with money, because we have no employment
24 and no wages.

25 I am not educated but I am
26 Chief. I live in Fort Franklin. I talk with my people.
27 And without this education, we are native people. We
28 know ourselves. We know what we know about the land
29 and the animals. And we know each other in terms of
30 being human with each other. So, what we say is not

1 lies, is not dishonest, it is simply the truth of the
2 way we live.

3 As to being in the position of
4 being a Chief for Fort Franklin, there are also chiefs
5 in other settlements along the MacKenzie River and in the
6 MacKenzie District. But to be a chief and to be in a
7 settlement, you are also isolated from the other settle-
8 ments.

9 And to talk about the major
10 issues, such as the pipelines, the dams, the highways,
11 the Chiefs need to inter-act, or to meet with each
12 other in different places to discuss these issues, to
13 come out with common recommendations, but also for the
14 people to be allowed to meet in each other's communi-
15 ties to talk more and more about these issues. We have
16 no money, no funds to take -- to provide these means of
17 meetings with each other. So, even if we are concerned,
18 we have no way of telling people or letting it be known,
19 because nobody comes to ask us what we think.

20 The radio reception in Fort
21 Franklin is very poor. As a matter of fact, it is
22 almost nil. Feed lines from Yellowknife C.F.Y.K. does
23 not come into Fort Franklin, so even if there is news
24 over the radio about these issues, we don't hear them in
25 Fort Franklin and we are not kept informed. So, there-
26 fore, it is very important that you make it available
27 for us to travel amongst each other.

28 Our land is not plentiful in
29 terms of the animals that we once used to kill and the
30 fish we used to fish at one time. At present it takes

1 at least two days to have our nets set in the water.
2 In the winter-time the ice is usually at least four feet
3 deep. And if you have your nets set for two days, you
4 are lucky if you catch two fish. And even if you go
5 hunting, sometimes you can go hunting for three days and
6 you don't get any moose. We are not lying when we say
7 we are poor. We are not lying when we say that we need
8 money. But we take it very hard that you have the money
9 to go into our land and carry on with your oil and
10 mineral exploration activities. And if you are to be
11 fair to us, us peoples living in the settlements, then
12 you must listen to us and you must take all the things
13 that we say for what it is.

14 With all this exploration or
15 all these activities going on, it has depeted the animal
16 life on the land, even to go out for fur. Sometimes we
17 go trapping a hundred miles, two hundred miles, and we
18 might go for two months duration, and you don't even
19 catch ten mink or marten or beaver or whatever, because
20 with all these activities, it has depeted a lot of the
21 animal life that used to be around Fort Franklin. We
22 have the Game Department and the Fisheries Department,
23 but with the studies they are carrying out, even they
24 are responsible for the depletion of the animal life
25 around us.

26 When these major developments
27 or oil activities or all the activities taken on which
28 brings you wealth, it makes us poorer. Take for exam-
29 ple the seismic lines that are going through on the
30 land in the North. It has greatly depleted the animal

1 life around our land. There is no more ptarmigan,
2 grouse, rabbits, and wherever they built their seismic
3 lines and go across lakes, they often dynamite and that
4 kills a lot of animal life, especially beaver, fish.
5 And they also dynamite the lands and sometimes the holes
6 are between eight inches to two feet wide and several
7 feet down. Rabbits and other small animals go down into
8 the holes and they never come out. They die. Other
9 animals, for example, foxes, beavers, scent these
10 animals in the holes and go in after them for prey, but
11 they, too, never come out and die there. I am not
12 lying when I say this, because I have seen it with my
13 own eyes.

14 In the summertime when there
15 is no snow covering the seismic lines, there is a form
16 of yellowish substance that comes out from these holes
17 and the animals feed on it. They, too, die. And the
18 peoples are against it and object.

19 And we are poorer on our land
20 than we have ever been before.

21 Perhaps as we were honest people
22 from the very first time that they brought in the
23 Treaty money, and perhaps because we were honest about
24 what we were, and that we did not know the value of
25 money, and you knew that maybe we didn't know the value
26 of money, you have your way of cheating us out of our
27 rights and out of our lands, and out of our way of
28 making a living. I repeat that what I say to you is
29 all true, and what the people say are all true.

30 And, also, with the introduc-

1 tion of alcohol, that is one major problem in the
2 community, and also in all the other communities.
3 It affects the lives of all the people in the communi-
4 ties, and there are many problems stemming from this one
5 thing alone.

6 And in education, they have
7 taken our children away to schools to educate them, but
8 they forget to remember that we are their people and we
9 are their parents, and they do not teach them or allow
10 in their education some time to include some of the
11 things that are important in the native life.

12 Some of the things stem from
13 -- or some of the problems that stem from alcohol in the
14 north, we find that a lot of people freeze to death by
15 it. A lot of people drown by it. There is family
16 breakdowns. If a couple were happily married before,
17 now they often fight. And for me, personally, (he
18 speaks as the Chief) I don't think that it is good for
19 the brain. It is better if people die naturally, but it
20 is not good for us if we see our people dying simply
21 because of alcohol.

22 This is all I have to say.
23 These are some of the problems that I wanted to bring to
24 your attention. There are many problems, but I think
25 some of the ones that I mentioned are the most important
26 ones. And you, being what you are with your position ,
27 and with your means of travelling, which is easier than
28 mine, I think it would be fair to say, that if you came
29 to see me in my home in my settlement once a week to see
30 how I live, then it is only fair then that you have a

1 right to talk about my land and my people and the issues
2 that concern my land and the people. And I don't speak
3 only for myself, but I speak for the rest of the Chiefs
4 and for the rest of the settlements, and the native
5 peoples in these settlements.

6 And with this, in closing,
7 I thank you. I am thankful that I had the opportunity
8 to tell you at first hand and right in your place and in
9 front of you the problems that concern us. I still
10 say that it is only fair that if you came to visit me
11 once a week, then I only see it then that it is justi-
12 fied that you talk about things that concern us up
13 north.

14 Thank you very much.

15 THE COMMISSIONER: Thank
16 you, Chief.

17 MR. WAH-SHEE: If your
18 honour would permit, we have Chief George Manuel who --
19 in which the -- both the Yukon and Northwest Indian
20 Brotherhoods are a member of. If your honour would
21 permit George Manuel, President of the National Union
22 Brotherhood to make a statement on our behalf. Thank
23 you.

24 THE COMMISSIONER: Yes, certainly,
25 Mr. Manuel.

26 MR. MANUEL: Thank you very
27 much, your worship. James Wah-Shee, Ladies and Gentle-
28 men:

29 I am here today representing
30 the National Indian Brotherhood, as the President of the

1 National Indian Brotherhood. We are a federation of
2 provincial and territorial organizations. We represent
3 registered Indian people from the Maritimes down to
4 British Columbia, the Yukon, and the Northwest Terri-
5 tories. We represent 260,000 Indians. I am here to
6 go on record as supporting the Indian people of the
7 Northwest Territories and the Yukon Territory.

8 I think we have a general
9 assembly resolution and if your worship would like to
10 see that, we would certainly have one available to you
11 during the course of your hearings here.

12 I would like to go on record
13 thanking the Government for its wisdom in assigning a
14 person who has a lot of experience and understanding of
15 the problem of the Indian Land Claims of Indian people
16 in Canada through your appointment, your worship.

17 First of all, I would like
18 to point out that we have a written presentation, so I
19 will not elaborate on it too much. I will just present
20 it to you.

21 But I would like to state
22 that the reason we are supporting the Yukon Native
23 Brotherhood and the Northwest Territory Native Brother-
24 hood in their land claims and in their presentation that
25 they want the land settled in the Northwest Territories
26 and the Yukon Territories before any development takes
27 place, and that research -- that thorough research be
28 conducted by them before any negotiations for settlement
29 begins.

30 The reason that we have sup-

1 ported the Yukon and the Northwest Territories Indian
2 Brotherhood is because we, in the southern parts of
3 Canada, we, the Indians in the southern part of Canada,
4 don't want the sorry experience that we have had over
5 the past hundred years repeat itself in the north. We
6 appreciate very much the hardship that our people have
7 gone through and I think you can appreciate it also,
8 because I think you have been exposed to them.

9 I think we think back to the
10 kind of poor housing conditions that we have had, the
11 heavy dropout rate from education that we have had, the
12 heavy unemployment statistics that we had of 54%, that
13 we still have, that we still have to live with, when we
14 think of the presentations and the struggle that the
15 Indian people in the Northwest Territories are making.

16 We understand the -- what
17 technology can do, how they can forget and overlook the
18 Indian way of life, regardless of how assured it is be-
19 fore a settlement takes place. I think our Indian
20 people in the south, your worship, experienced the
21 promises of Parliamentarians, the promises of Treaties,
22 in which they were not kept. I think gradually a way
23 of life was eroded, a way of life was legislated out of
24 existence. I think that is a very serious and deep con-
25 cern with our people.

26 I think if, in the event
27 that our way of life was being legislated out of exist-
28 ence, was replaced by something acceptable to the
29 Indian people, so they wouldn't have to live the kind of
30 hardship that they have experienced over the past hun-

I think it is in this context, your worship, that I make this presentation to you today.

The National Indian Brotherhood, being a Federation of Provincial and Territorial Organizations representing 260,000 Status Indian population in Canada is pleased to present its views and concerns to the Honourable Justice Mr. T.R. Berger on the occasion of the preliminary hearings in regard to the conduct of the MacKenzie Valley Pipeline Inquiry, and as to how the Inquiry should proceed.

We wish to commence Mr. Justice Berger in holding these preliminary discussions on the conduct of the inquiry itself.

The question of the consider-

1 ation of such a massive undertaking as the construction
2 of a pipeline through the MacKenzie Valley, of course,
3 has tremendous implications for the Indian people, not
4 only in the two territories, but in all of Canada. It
5 is for this reason the National Indian Brotherhood is
6 making this presentation.

7 SUPPORT OF POSITION OF INDIAN BROTHERHOOD OF THE
8 NORTHWEST TERRITORIES AND YUKON NATIVE BROTHERHOOD

9 The National Indian Brother-
10 hood wholeheartedly endorses the submissions made by
11 the Indian Brotherhood of the Northwest Territories and
12 the Yukon Native Brotherhood and wishes to assure the
13 Honourable Justice Berger, conducting the Preliminary
14 Hearing, that the Indian people of Canada attaches the
15 greatest utmost importance to the resolving of the ques-
16 tion of the Aboriginal Rights of the Indian people in
17 the Yukon Territory and the Northwest Territories, as
18 indeed in the rest of Canada.

19 As the Indian Brotherhood of
20 the Northwest Territories and the Yukon Native Brother-
21 hood are member organizations of the National Indian
22 Brotherhood, the statements of positions they have
23 already submitted are included as appendices to this
24 paper in order to fortify their position and to impress
25 upon the Inquiry the great importance attached to their
26 submission by the National Indian Brotherhood.

27 We strongly re-iterate the
28 views of the Indian people of the Yukon Territory and
29 the Northwest Territories that "There can be no massive
30 developments like the proposed pipeline until a land

1 settlement is made with the Native people."

2 DETERMINATION OF RIGHTS OF CROWN VS RIGHTS OF INDIANS
3 AND INUIT

4 We further submit that the
5 terms of the Inquiry pre-limits the examination of the
6 matter of the rights and jurisdiction of the Federal
7 Government itself, and of the territorial governments,
8 in their assumption of rule and sovereignty over the
9 territories in question.

10 We submit the question of
11 the rights of the Indian people in the territory is of
12 paramount concern. But of more fundamental and basic
13 concern is the question of whether, or when, or how, or
14 in what manner, the Government of Canada, or the pre-
15 decessor governments of France or England, had ever
16 gained, acquired or were given the rights of ownership
17 which has been held by the Indian and Inuit of the
18 territories in question since time immemorial.

19 The Order-in-Council appoint-
20 ing and authorizing Mr. Justice Berger to conduct the
21 Inquiry serves to limit his authority to inquire into
22 the "social, environmental and economic impact of the
23 construction, operation and abandonment of the proposed
24 pipeline."

25 We submit the historical,
26 moral and legal consideration of the claims over the
27 territories by the Government of Canada should also be
28 examined, and that the Federal and Territorial Govern-
29 ments be compelled to offer proof-positive that the
30 lands in what is now known as the Yukon and Northwest

1 Territories have been, in fact, acquired legally and
2 with the current acquiescence and knowledge of the
3 Indian people and Inuit of the Territories who have
4 owned and lived in those lands since time immemorial.

5 The Government of Canada
6 lays claim to the ownership and jurisdiction of the
7 lands in the territories owned by prior occupation and
8 usage by the Indian people and Inuit.

9 Let the Government of
10 Canada put forward proof and irrefutable evidence that
11 it, and not the Indian people and Inuit, does in fact
12 own the land and the rights and sovereignty over the
13 land.

14 We submit there is no base
15 in historical fact, legal surrender, or moral law that
16 gives the right to the Government of Canada the rule
17 and sovereignty over the land in question.

18 We submit that the basic,
19 fundamental, and prior question that must be settled
20 and determined, is not whether there should or should
21 not be a pipeline, but "Who rightfully owns the land?"

22 Does the Government of
23 Canada in fact own the land; or do the Indians and
24 Inuit own the land?

25 That is the prior question
26 that must be determined.

27 We submit that among the
28 "terms and conditions that should be imposed in respect
29 of any right-of-way that might be granted across Crown
30 lands" is the question of determining whether they are,

1 in fact, "Crown lands"; and whether the Crown has, in
2 fact, the right to grant any right-of-way in the terri-
3 tories. Aboriginal right of ownership has been signifi-
4 cantly recognized in the past by the European Canadians
5 in their laws. The special place of Indians is reflec-
6 ted in the Treaty of Utrecht, the Royal Proclamation of
7 1763, the British North America Act of 1867, the Mani-
8 toba Act of 1870, the Terms of Union of British Columbia
9 in 1871, the British North America Act of 1930, the
10 Treaties and the Indian Act.

11 RESULTS OF UNSATISFACTORY SETTLEMENT OR DETERMINATION
12 OF RIGHTS OF CROWN VS. RIGHTS OF INDIANS AND INUIT

13 Canada's treatment of its
14 Indians and Inuit indigenous population has been one long
15 shameful and sordid episode to the present day. At the
16 root of this shameful story is the White man's covetous-
17 ness of the Indians' and Inuit' lands, and the riches
18 they contain.

19 It seems the White man will
20 not rest in this land until they have finally destroyed
21 and taken away every last square inch of Indian and
22 Inuit land.

23 The greater shame and sordid-
24 ness is that once having acquired legally or illegally,
25 the ownership of the land, the White man then relegates
26 the Indian and Inuit to the fringes of their own society
27 so that Indian and Inuit today are reduced to poverty-
28 stricken outcasts in their own land.

29 The provisions under the
30 "Social Guidelines" of the "Expanded Guidelines for

1 Northern Pipelines" only further reflects the usual
2 prevailing White man's views that the Indian and Inuit
3 can only be "trained and prepared" for the most base
4 and most menial of jobs.

5 Nowhere in the "expanded
6 Guidelines" is there any indication the Indian and Inuit
7 will be guaranteed and assured of employment, or even
8 compensation in lieu of employment.

9 Both the Order-in-Council
10 appointing Mr. Justice Berger to conduct the Inquiry and
11 the "expanded Guidelines for Northern Pipelines" is
12 based fully on the assumption by the Government of
13 Canada that the pipeline in the MacKenzie Valley Dis-
14 trict will proceed at any rate and at any cost.

15 It does not indicate the
16 Inquiry might conclude and could determine such a pipe-
17 line MUST NOT PROCEED on the basis that the social,
18 environmental and economic aspects of such a pipeline
19 have serious, negative, undesirable and deterious impact
20 and effects in the Territories.

21 Both the Order-in-Council
22 and the Expanded Guidelines ignore and omit the histor-
23 ical, moral and legal questions as to whether the
24 Government of Canada does, in fact, have the right and
25 power to exercise the rule and sovereignty over the
26 land in question in the Territories.

27 We submit, your worship,
28 that this Inquiry should examine and determine the
29 prior question and on that basis might conclude and
30 determine that such a pipeline cannot be proceeded with

1 at this time and until such time as the true, historical
2 and legal ownership of the territory in question is fully
3 ascertained.

4 If this determination is not
5 forthcoming, the question of the legality, morality and
6 reality of the true ownership of the land in question
7 will continue to foster for years to come.

8 In view of the past Canadian
9 Governments' intransigence and continued and continual
10 aggression against the Indians and Inuit of the Terri-
11 tories and the rest of Canada, the Aboriginal people of
12 this country will continue to be aggrieved by the unwar-
13 ranted, illegal, amoral seizure and claims upon their
14 land by the Government of Canada and the Territories.

15 Therefore, we will continue
16 to seek justice and retribution by whatever means and
17 whatever avenues may be available.

18 We, therefore, implore your
19 worship to examine and determine this basic question of
20 ownership of the land in your inquiry prior to deter-
21 mining whether there should or should not be a pipeline.

22 FROM THE BRIEF OF THE INDIAN BROTHERHOOD OF THE NORTH-
23 WEST TERRITORIES

24 "No. 1. The Inquiry cannot
25 be effective --" I think I am quoting from the Terri-
26 tories, so I will just leave it there, and thank you
27 very much.

28 THE COMMISSIONER: Thank you
29 very much. The statement that Mr. Wah-Shee read on be-
30 half of the Federation of Natives North of 60 will be

1 marked as an exhibit and will become part of the record,
2 and the statement read by Mr. Manuel on behalf of the
3 National Indian Brotherhood will be marked as an exhibit
4 and will be part of the record of this Inquiry.

5 (STATEMENT OF THE FEDERATION OF NATIVES NORTH OF 60
6 MARKED EXHIBIT NO. 18.)

7 (STATEMENT OF NATIONAL INDIAN BROTHERHOOD MARKED
8 EXHIBIT NO. 19.)

9 I will now ask Mr.
10 Templeton of the Environment Protection Board.

11 MR. TEMPLETON: My name is
12 Carson Templeton. I am Chairman of the Environment
13 Protection Board which is a non-constituted board. It
14 doesn't have a charter and it has no authority. It was
15 formed in 1970 and the members are Doctor Bliss, Doctor
16 Britton, Mr. Don Craik, Mr. Eric Gourdeau, Mr. Ian
17 McTaggart-Cowan, Doctor Stan Thomson, Doctor Norman
18 Wilimovsky.

19 The Board was organized to
20 see if a group of engineers and scientists experienced
21 in northern matters could influence a large project in
22 -- to actually achieve environment protection as
23 separate from just recommending.

24 We felt that to achieve
25 environment protection, the sequence of the tasks that
26 we should perform were first, to recommend to, in this
27 case the pipeline company, methods which could be
28 incorporated into the designs to achieve the Board's
29 goal of environment protection. And second, to prepare
30 an environmental impact assessment which is what this

1 hearing is about. And third, to monitor the work, if
2 the project goes ahead. And fourth, to make a post-
3 construction evaluation so that future scientists and
4 people can see how well the environment protection
5 methods actually worked, and how well the predictions
6 were.

7 This Board is now preparing
8 the environmental impact assessment and respectfully
9 requests that it be considered as an intervenor at the
10 hearing and it does not present one side or the other,
11 in our opinion. We will leave that to be discussed
12 later.

13 You asked, I believe, sir,
14 how long we wished to take. I think we will be guided
15 by how much time you give us. Our impact assessment
16 will be four volumes, of which one is an Atlas, and the
17 main volume of our opinion will be perhaps 90 pages and
18 I don't imagine that you have the time to -- for us to
19 read that, but we will condense that to whatever length
20 you wish to give us, but we would like to be considered
21 as an intervenor.

22 THE COMMISSIONER: May I ask
23 you a question, Mr. Templeton?

24 MR. TEMPLETON: Yes.

25 THE COMMISSIONER: I am per-
26 fectly willing to read your 90 pages, in fact, I am will-
27 ing to read the four volumes, but are they available now?

28 MR. TEMPLETON: No, they are
29 not available now. We are struggling, as best we can,
30 to have them available by the 1st of August. They will

1 be made public, as all our work has been made public to
2 date, and these will be made public hopefully before the
3 formal hearings, so that other people can react to them
4 and members of the Board will be available for cross-
5 examination or explanations.

6 THE COMMISSIONER: I hope
7 that before the day is over you will make sure that we
8 have, if we have not already got your name and address
9 and so forth.

10 MR. TEMPLETON: Yes. I will
11 give it to you now. I will also give you the proceedings
12 of a Workshop that we had some six or eight months ago
13 to try and work out the philosophy of impact assessments,
14 what we really mean by them. I think you might find it
15 interesting.

16 THE COMMISSIONER: Thank you,
17 Mr. Templeton. Well, the letter that Mr. Templeton has
18 just handed to me from the Environment Protection Board
19 will be made an exhibit and part of the record in this
20 Inquiry, and so, also, will the proceedings entitled
21 "Workshop and the Philosophy of Environmental Impact
22 Assessments in Canada" prepared by the Environment
23 Protection Board.

24 (LETTER AND DOCUMENT FROM ENVIRONMENT PROTECTION BOARD
25 MARKED EXHIBIT NO. 20 (a) & (b) RESPECTIVELY.)

26 I will now ask Mr. Mosquin
27 of the Canadian Nature Federation to come forward.

28 MR. MOSQUIN: Mr. Commission-
29 er, I am very pleased to be able to present the views of
30 the Canadian Nature Federation at these Preliminary Hear-

1 ings.

2 The Canadian Nature Federa-
3 tion is Canada's largest and most rapidly growing
4 national conservation organization. Our Federation
5 therefore feels a strong responsibility to do what we
6 can in assisting you to establish the terms and condi-
7 tions that should be imposed in respect to the applica-
8 tion by Canadian Arctic Gas Pipeline Limited for a
9 right-of-way to build a pipeline across public lands.

10 I want first to say a few
11 words about our Federation, whom and what we represent.

12 We grew out of the Canadian
13 Audubon Society in 1971. In 1972 we started with only
14 1800 members, now we have 11,000. While we have a
15 direct membership, which is growing very rapidly, we are
16 also a true national federation. Within each Province
17 there is a Provincial Naturalist Federation or other
18 environmental group which appoints a director to our
19 Board.

20 So, in addition to our
21 11,000 direct members, we have about 30,000 affiliate
22 members. One of our largest provincial affiliates, the
23 Federation of Ontario Naturalists, headquartered in
24 Toronto, will be presenting a submission, I understand,
25 to this Preliminary Hearing later.

26 We publish what we believe
27 to be Canada's leading nature and environment magazine,
28 Nature Canada, and now employ twelve people at our head
29 office at Ottawa. In preparing submissions to govern-

30

1 ments we can and do rely upon our own experts, mostly
2 from Universities. In the past two and a half years we
3 have prepared and presented 15 submissions to govern-
4 ments. So we have the capability to obtain the exper-
5 tise we require although financial resources have in
6 the past severely limited our ability to retain experts
7 for longer than a few days.

8 Our interest in these pre-
9 liminary hearings stems largely from our concern for
10 the north. The north is an integral part of Canada and
11 what happens to the natural environment and the wild-
12 life in that part of Canada is of fundamental importance
13 to every Canadian wherever he or she may live.

14 We are very pleased indeed
15 that these preliminary hearings have been called so that
16 we have an opportunity to give our views regarding the
17 practice and procedures that may be followed at the
18 inquiry itself.

19 Because our Federation is
20 the largest national conservation and environment group
21 in Canada, we would like to declare our intention to
22 appear at the inquiry. We are mindful of the fact that
23 many environmental groups may wish to make presenta-
24 tions. There are about 350 conservation and para-
25 conservation groups in Canada. This is known because
26 in 1973 our Federation published a national directory
27 of these groups. We know that perhaps half of the con-
28 servation groups would agree to have the Canadian Nature
29 Federation speak for them at the inquiry. Certainly the
30 naturalists' and the nature oriented groups can be

1 spoken for by our Federation. I understand that the
2 Federation of Ontario Naturalists will ask that we repre-
3 sent their interests, for example.

4 But while we feel we can
5 assist in evaluating the application with respect to the
6 impact of the proposed pipeline upon wildlife, wilder-
7 ness and natural environment values, we might have dif-
8 ficulty in locating the required legal expertise. We
9 know that the Canadian Arctic Resources Committee has a
10 specialized group in this area and we hope that you
11 will support them since legal work can be particularly
12 expensive. The Canadian Nature Federation has been
13 working closely with CARC during the past two years.
14 Dr. Pimlott, the last Chairman of CARC also served as
15 president of our Federation from March 1972 to August
16 1973. Should our Federation receive support to contri-
17 bute at a really meaningful level to the inquiry, we
18 would not at all mind sharing some facilities with
19 CARC.

20 The Canadian Nature Federa-
21 tion feels that alternatives to the pipeline should be
22 fully aired at the inquiry. We know, for example, that
23 both the Canadian Institute for Guided Ground Transport
24 and more recently the Federal Department of Transport
25 have conducted detailed studies. We would like to be
26 able to examine these carefully and comment upon them
27 at the inquiry.

28 On the subject of informa-
29 tion, we are pleased, Mr. Commissioner, to learn that
30 all federal government studies might be freely obtain-

1 able. We know that the industry has also made public
2 much of their commissioned research. We would like to
3 know, however, whether the industry has commissioned any
4 research that they have not made public or do not plan
5 to make public before the full inquiry starts. If such
6 confidential research exists we feel that this, too,
7 should be made public.

8 As for timing of the inquiry
9 we cannot possibly make an adequate analysis of the
10 application this summer. The experts whom we would like
11 to use are committed for the present. Some months as
12 well as appropriate funds would be required in order to
13 free them from their current commitments and responsi-
14 bilities. And since the Federal report on the applica-
15 tion will not be available until the fall, we feel that
16 the full scale study by our experts of environmental
17 aspects of the pipeline application cannot realisti-
18 cally start until perhaps October. At any event, the
19 date for starting the inquiry should at least be left
20 open until the government report is in.

21 As for procedures to be
22 followed at the inquiry itself, we believe that the
23 full meaning of the pipeline to Canada will become
24 evident only if cross-examination of industry experts
25 and other experts is built right into the hearing pro-
26 cess. There is nothing more exasperating to the general
27 public or the media than when two experts contradict
28 each other. It is impossible to know which expert to
29 believe. Cross-examination is essential.

30 To conclude, we feel that one of

1 the most important things that you can do, Mr. Commis-
2 sioner, is to enable the environmental groups to speak
3 with adequate backing for research. It has been our
4 experience that advocates of major development projects
5 show little or no evidence of caring about the losses to
6 natural values. Yet these values are part of the
7 wealth of the land. They are especially important to
8 the Native peoples. They cannot be spoken for on a
9 financial shoestring. The extractive interests can be
10 well funded, with well paid experts and lots of help but
11 the public interest groups such as ours, cannot fairly
12 be expected to make a case for natural and environmental
13 values unless a mechanism for supporting them collective-
14 ly is available. Support and tangible incentives are
15 essential for those people and institutions that are
16 endeavouring to see that natural values are spoken for
17 before decisions to change or lose these values are
18 made.

19 Thank you.

20 THE COMMISSIONER: Thank you
21 very much, Mr. Mosquin. You read from a paper. If you
22 are willing to let us have it, we will mark it as an
23 exhibit for the record. Thank you very much, sir. That
24 will be marked then.

25 (SUBMISSION TO THE PRELIMINARY HEARINGS, MacKENZIE
26 VALLEY PIPELINE, BY CANADIAN NATURE FEDERATION MARKED
27 EXHIBIT NO. 21.)

28 THE COMMISSIONER: I will ask
29 Mr. Gibson of the Working Group on Canadian Energy
30 Policy to step forward.

1 MR. GIBSON: Mr. Justice
2 Berger, I have a fairly brief statement with appendices.
3 I will not bother with the appendices, and we have some
4 further documents which we will be submitting, a further
5 appendix and our final reports as they come through.

6 The Workgroup operates
7 under the auspices of the Faculty of Environmental
8 Studies at York University. Over the past year its
9 members have been engaged in studies relating to the
10 Canadian Arctic Gas Pipeline Limited proposal to con-
11 struct a natural gas pipeline down the MacKenzie Valley
12 before 1980.

13 It is hoped that these
14 studies will provide a useful contribution to the hear-
15 ings and public debate concerning the proposed pipeline.
16 Though not yet in complete and final form, the studies
17 are sufficiently advanced to provide us with certain
18 conclusions which, we think, bear upon the present pre-
19 liminary hearings.

20 The Workgroup believes that
21 the primary issue to be addressed is whether or not the
22 MacKenzie pipeline is needed at this time. We believe
23 that the questions regarding the extent and severity of
24 social, environmental, and economic damage are logically
25 secondary.

26 We have, therefore, attempt-
27 ed to develop an answer to the question of the need for
28 natural gas provided through a MacKenzie pipeline by

- 29 (a) examining projections of Canadian demand for
30 natural gas,

1 (b) surveying existing marketable conventional
2 reserves of natural gas in Canada, likely
3 additions to these reserves, and possible in-
4 creases in production rates, and

5 (c) studying the feasibility of incremental addi-
6 tions of coal gasification facilities to meet
7 whatever supply shortfalls may arise.

8 Canadian Arctic Gas Study
9 Limited officials have argued that the MacKenzie pipe-
10 line is needed because, according to their projections,
11 there will be a 1% shortfall of natural gas supply re-
12 lative to demand in 1979, rising to a 15% shortfall by
13 1987. We have examined this contention and have in
14 light of our studies concluded that the consortium's
15 demand projection is unreasonably high and that its
16 supply projection is unreasonably low. We have further
17 concluded that the coal gasification alternative for
18 meeting any supply shortfall within the next decade is
19 at least worthy of further study and consideration.

20 We would therefore argue
21 that the primary claim that the MacKenzie Valley pipe-
22 line is needed to meet Canadian demand is, at very
23 least, in doubt.

24 The significance of this
25 point relates to the issue of the timing of hearings
26 under the MacKenzie Valley Pipeline Inquiry. The North-
27 west Territories Indian Brotherhood has apparently
28 argued that there must in all fairness be a delay of the
29 hearings until native field workers can inform the native
30 people in MacKenzie Valley communities about the contents

1 and implications of the recently submitted application.
2 In light of the fact that the primary question of neces-
3 sity has not been resolved, we see no reason why this
4 request ought not be granted.

5 It seems to us that the
6 question of the need for non-conventional natural gas
7 supplies ought logically to be settled first. Then the
8 various alternative sources and modes of transportation
9 can be examined. Finally the specific stipulations on
10 the accepted project, if any, can be decided. There
11 seems to be little sense in hurrying to determine the
12 terms and conditions which ought to apply to the enact-
13 ment of one particular alternative before the necessity
14 and desirability of the various possible alternatives
15 have been weighed and decided. Indeed, there may be
16 some danger that, by acting to provide terms and condi-
17 tions for a project as if its necessity and desirability
18 had already been decided, the Inquiry would tend to pre-
19 judice the examination of the primary issues by the
20 National Energy Board.

21 We respectfully suggest that
22 the MacKenzie Valley Pipeline Inquiry could reasonably
23 follow only one of two possible approaches. If it is
24 decided that discussions of the primary issues of the
25 need for and desirability of alternative sources and
26 modes of transport are within the terms of reference of
27 the Inquiry, then the Inquiry ought to begin by consider-
28 ing these questions and ought to postpone the hearings
29 concerning the terms and conditions to be applied to the
30 MacKenzie pipeline project until such a time as that

1 project may be determined to be necessary and desir-
2 able.

3 If, on the other hand, the
4 primary issues are judged not to be within the terms of
5 reference of the Inquiry (if, as Mr. Goldie has apparent-
6 ly argued, the question of alternative means of supply-
7 ing additional natural gas will properly be discussed
8 before the National Energy Board and not before the
9 Inquiry), then the hearings concerning the terms and
10 conditions can and, we feel, ought to be delayed until
11 after the NEB reaches its decision.

12 The other approach - to
13 determine the terms and conditions to be applied to a
14 project which may be, and may be found to be, unneces-
15 sary or undesirable - seems to us illogical, prejudic-
16 ial, and wasteful.

17 The Workgroup feels that
18 there is some doubt regarding the necessity and rela-
19 tive desirability of the proposed MacKenzie Valley gas
20 pipeline. We urge that the MacKenzie Valley Pipeline
21 Inquiry not proceed as if this were not so.
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1 THE COMMISSIONER: Thank you
2 very much, Mr. Gibson.

3 The submission that Mr. Gibson
4 has read and and which has been handed to me will be
5 marked as an exhibit and will be made part of the
6 record.

7 (SUBMISSION BY MR. ROBERT B. GIBSON, FOR WORKGROUP ON
8 CANADIAN ENERGY POLICY: THE MACKENZIE VALLEY PIPELINE
9 MARKED EXHIBIT NO. 22 (a).)

10 I am told that there is coffee
11 available. I think we will take a 10-minute break and
12 we will re-convene at about 12:00, and then we will
13 carry on toward 1:00 o'clock and then we will break
14 for lunch. So we will take a rest period now for a
15 few minutes for coffee.

16 (PROCEEDINGS ADJOURNED FOR 10 MINUTES.)

17 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

18 THE COMMISSIONER: I will call
19 our meeting to order again, and before we go to the next
20 item, the next group on our list, there have been some
21 submissions made in the mail, and these groups have
22 asked that their submissions be placed on the record,
23 and I will ask Mr. Waddell, the Special Counsel to the
24 Inquiry, just to read them out so that everybody here
25 knows what has been submitted in writing to the Inquiry
26 by these groups.

27 Go ahead, Mr. Waddell.

28 MR. WADDELL: Mr. Commissioner,
29 this is a letter from The Northwest Territories Associa-
30 tion of Municipalities under the signature of D.B.

1 Reesor, R-E-E-S-O-R, the Executive Director, and it is
2 to you:

3 "Dear Sir:

4 On behalf of the Association, I
5 would like to thank you for having heard our Brief
6 during the Preliminary Inquiry Meeting in Inuvik on
7 April 24th. As indicated in our submission, we re-
8 quire assistance in the form of information and
9 funding for the analysis of the information, to be
10 able to meet an early deadline for submissions to
11 the Inquiry. We feel that the Inquiry Hearings
12 must be held within the next six months to be able
13 to maintain the 'time advantage' that Canadian
14 Arctic Gas has over El Paso in Alaska at the pre-
15 sent time. We, therefore, respectfully request
16 your assistance in providing us with the necessary
17 funding either out of your budget or from some
18 other source, in order to enable us to make a
19 meaningful contribution to the Inquiry. "

20 Under the heading of "UTILIZA-
21 TION OF FUNDS":

22 "The effects of the pipeline
23 will be felt in many ways. In one municipality a
24 doubling of population may result in shack-towns
25 because the municipality did not have the funds
26 and information to properly plan and prepare; in
27 another, because of the racial mixture, a slight
28 increase in population may send the crime rate
29 soaring; and in still another, no increase in popu-
30 lation may be accompanied by a high rate of commun-

1 " ity turnover and cause an alteration in recreation
2 needs which cannot be satisfied without a good deal
3 of fore-thought.

4 The pipeline will effect the
5 municipalities of the MacKenzie Valley Basin. A
6 change in one part of the system will result in
7 changes throughout.

8 The control and management of
9 funds obtained through your good offices would be
10 retained by the Association in order to maintain a
11 co-ordinated effort and avoid lack of duplication.
12 The funds would be allocated to each municipality
13 and expenditure decisions would be totally theirs,
14 since they are most knowledgable in what analysis
15 of information they require and what their priori-
16 ties are in order to establish valid plans in
17 anticipation of pipeline effects. Among the
18 expertise hired for the work would be planners,
19 engineers and financial analysts.

20 At the Inquiry Hearings, every
21 municipality will be submitting a Brief which will
22 contain their comments on the pipeline application
23 in view of their individual research projects. The
24 Association's Submission will contain remarks relat-
25 ing to those concerns which all the municipalities
26 have in common. No funding obtained as a result of
27 this request will be spent by the Association, but
28 rather will all be spent at the grass-roots level."

29 The next heading is "NEED FOR
30 FISCAL ASSISTANCE".

1 "Since Municipalities have ac-
2 cess to taxation, why are they requesting fiscal
3 assistance for the analysis of pipeline impact
4 information? The reason lies in the fact that they
5 are caught in a disastrous spiralling of municipal
6 costs set against extremely restricted sources of
7 revenue.

8 Northern municipalities are
9 having extreme difficulties in even providing the
10 basic necessities in the way of normal municipal
11 services because of very high costs arising from:

- 12 (a) all financial, social and political
13 processes in the North requiring greater
14 effort, resources, material and expenses
15 to gain and achieve in many cases, lesser
16 results than in the South.
- 17 (b) the high cost of transportation, which is
18 reflected directly or indirectly in every
19 financial transaction.
- 20 (c) the requirements of servicing the present
21 economic boom period, as opposed to more
22 settled economics elsewhere.
- 23 (d) a low economic multiplier, which is a
24 result of a high level of dollar leakage
25 to southern markets. This indicates a
26 basic inability of the economy to support
27 many local businesses which would help to
28 reduce costs.
- 29 (e) a very narrow tax base.

30 This situation has resulted in

1 " very high municipal taxation in the North. Revenue
2 for studying the short and long-term impact of a
3 pipeline on municipalities is just not available.

4 In conclusion, we would hope
5 that municipalities in the Northwest Territories
6 will be given the same opportunity as other
7 groups, to fully research the Canadian Arctic Gas
8 Application and to prepare for Inquiry Hearings.

9 We look forward to hearing
10 from you at your earliest convenience.

11 Yours truly,

12 "D.B. Reesor"

13 D.B. Reesor,
14 Executive Director. "

15 THE COMMISSIONER: That will be
16 marked as an Exhibit.

17 (LETTER, MAY 1, 1974, THE NORTHWEST TERRITORIES
18 ASSOCIATION OF MUNICIPALITIES MARKED EXHIBIT NO. 23.)

19 MR. WADDELL: I will leave the
20 one from Spec for a moment. It is a little longer and
21 read the one from the Indian Association of Alberta.
22 This is from Mr. Young, in a letter dated May 3rd,
23 Robert A.M. Young to the Inquiry.

24 "Further to our recent conver-
25 sations please find enclosed a letter from the
26 Indian Association of Alberta that I would ask you
27 pass on to the Honourable Mr. Justice T.R. Berger
28 to ensure that it is recorded on the record of the
29 MacKenzie Valley Pipeline Inquiry."

30 "Re: MacKenzie Valley Pipeline
Inquiry."

1 "
2 As solicitor for the Indian
3 Association of Alberta, I have been instructed to
4 write you to enquire as to whether or not the hear-
5 ings you are holding are the proper forum before
6 which the Indian Association of Alberta, on behalf
7 of the Indian people of Alberta, should make their
8 submission with regard to the MacKenzie Valley
9 Pipeline. We appreciate that your terms of refer-
10 ence might well be interpreted so that your inquiry
11 is concerned only with matters within the Yukon
12 Territory and the Northwest Territories, but the
13 Indian Association of Alberta is most anxious for
14 advice from your Commission as to at what stage the
15 views of the Indian people of Alberta, whose lives
16 will be greatly affected by the construction of the
17 proposed pipeline, will be heard.

18 It is our understanding that
19 the preliminary hearings you are now holding are
20 simply to hear the different points of view as to
21 the timing of and the procedures to be used when
22 the inquiry on the merits begins. If your terms
23 of reference do not extend to the Province of
24 Alberta, we then seek your advice as to in what
25 manner and to whom our views should be presented.

26 Aside from our concern that
27 at some stage we be allowed to put the opinions of
28 the Indian people of Alberta before you, or if the
29 terms of reference of your inquiry do not extend
30 to the Province of Alberta, some other inquiry or
commission, we are greatly concerned that the

1 " Indian people of northern Alberta do not have the
2 resources to properly evaluate the social, environ-
3 mental and economic impact that the construction
4 operation and subsequent abandonment of the proposed
5 pipeline will have on their lives. As you are un-
6 doubtedly aware, industry and most of the environ-
7 mental groups have such resources but the Indian
8 people whose lives will be most greatly affected
9 do not. We would therefore request your advice and
10 direction as to what can be done to provide these
11 badly needed resources.

12 Yours very truly,

13 Robert A.M. Young. "

14 THE COMMISSONER: Well, those
15 two letters will be marked as exhibits.
16 (TWO LETTERS, DATED MAY 3, 1974, INDIAN ASSOCIATION OF
17 ALBERTA, MARKED EXHIBIT NO. 24.)

18 THE COMMISSIONER: Before you go
19 on, I think we will call on Mr. Osler of Pollution Probe
20 to come forward now.

21 MR. OSLER: Thank you, Mr. Com-
22 missioner. My name is Sandford Osler from Pollution
23 Probe at the University of Toronto. I am afraid I don't
24 have a formal submission in writing now, but I do have
25 some notes though that I will try and follow so that I
26 will not wander too much.

27 I would like to say at the out-
28 set that we welcome this opportunity to participate in
29 these preliminary hearings and to state our views as to
30 how your Commission and your Inquiry will proceed at a

1 later date.

2 Perhaps I should give a
3 little background on Pollution Probe itself. We were
4 formed in 1969 as an official project of the Department
5 of Zoology at the University of Toronto. Our broad
6 objectives have been to improve environmental quality
7 in Canada and to open up the decision making process.

8 In 1970 the Energy and
9 Resources team of Pollution Probe was founded in recog-
10 nition of the paramount importance of energy matters in
11 society, and in anticipation of some of the present
12 problems in the energy field which are now before us.
13 We have attempted in the Energy Team to apply the very
14 broad objectives of Pollution Probe to the field of
15 energy. And since 1970 we have become more and more
16 aware of the undesirable and unsustainable nature of
17 our increasingly energy intensive society. We are cur-
18 rently moving to promote efficient and conservative use
19 of energy and to encourage an energy consumption pattern
20 which is consistent with the finite limits of the world.

21 In 1972 the Energy Team be-
22 gan to devote increasing attention to the question of
23 the MacKenzie Valley Gas Pipeline. In many ways this
24 enormous project was seen by us to symbolize how not to
25 manage and utilize Canada's non-renewable resources. In
26 1972 we prepared our background statement on the Arctic,
27 which I will file, if you wish, with the Inquiry, which
28 outlined the inadequacies of the Federal Government's
29 northern policies, particularly with respect to Native
30 peoples and the environment.

1 Also in that year we wrote
2 and released our special report on the MacKenzie Highway
3 which detailed the totally inadequate attention that had
4 been paid by the Federal Government to the environmental
5 considerations in planning for and constructing the
6 MacKenzie Highway.

7 Subsequent to these reports
8 we have prepared a series of information packets on the
9 pipeline and have served as an information base to many
10 of the citizens groups concerned about the pipeline.

11 With that as an introduction,
12 I would like to get to the question of the decision making
13 process on the pipeline.

14 Right from the outset we
15 have recognized the very fundamental importance of this
16 particular issue, the issue of the MacKenzie Valley Gas
17 Pipeline. This is the issue which its backers proudly
18 described as the "World's Largest Energy Project". It
19 certainly will be the most expensive project ever under-
20 taken by private capital in this country and probably in
21 this continent. The outcome of this decision will re-
22 flect the values and goals of Canada and will have
23 indelible effects upon the direction of this country
24 until at least the end of this century. Thus, we feel
25 it very imperative that an adequate decision making pro-
26 cess be in effect to ensure that the final outcome is
27 indeed in the national interests.

28 In the past we have been very
29 concerned about the inadequacies of the decision making
30 process as it applies to energy matters in this country.

1 In a minute I will address myself to recommendations for
2 this Inquiry as to how it should proceed on assessing
3 the regional impact of this pipeline, but, first, for
4 several minutes, I would like to look briefly at the
5 National Eenergy Board, which is, of course, the deci-
6 sion making process for the national impact of this pro-
7 posed pipeline, because I think some of the comments I
8 will make in this respect will have some bearing on the
9 hearings to be held by this Inquiry.

10 First of all, we are very
11 concerned about the strong statements of support that
12 have been made recently and in the past by some of our
13 most senior Federal Cabinet Ministers, including the
14 Prime Minister, in support of the MacKenzie Pipeline
15 before the National Energy Board hearings have been held
16 and before the MacKenzie Valley Pipeline application was
17 even filed. If the National Energy Board says "No" to
18 the MacKenzie Pipeline proposal, there is no way under
19 the present Act that the Cabinet can reverse that deci-
20 sion and say that the MacKenzie Pipeline will in fact be
21 built. Thus the strong support by Cabinet Ministers, in
22 our mind at least, tend to make it more difficult for
23 the Energy Board to reject the application.

24 Secondly, there are a number
25 of actual practices and procedures by the Energy Board
26 which, in our view, make it very difficult for effective
27 public participation, and I should point out that Pollu-
28 tion Probe has been before that Board four times in the
29 past, and more than any other citizens group, and that
30 many of the complaints we have about their procedures

1 are based on our own personal experience. And these
2 suggestions about the Board's practices have been com-
3 municated to the Board as recently as last week when I
4 was before them.

5 The first is the question of
6 the enormous cost to participate in an inquiry or in a
7 hearing such as that held by the National Energy Board.
8 The research, legal, transportation, witness and trans-
9 cript costs alone are into the thousands of dollars each
10 week, and it is simply impossible for a group with no
11 vested financial interest in the outcome to raise and
12 to continue to spend that sort of money month after
13 month.

14 The second question is the
15 actual membership of the National Energy Board which at
16 present and in the past is primarily from the petroleum
17 industry or the legal or economic side within the Civil
18 Service. We certainly don't dispute the fact that there
19 should be some people on the Board with this sort of
20 background, but we also feel it very important that
21 Board Members also understand and have experience in
22 environmental sociological and/or consumer interests,
23 and that they be better able to understand the values
24 and attitudes which groups such as ours, and many other
25 citizens groups, will put before them.

26 The third point which is
27 somewhat coupled with this question of the membership of
28 the Board is the rather narrow approach that the Board
29 has adopted in the past. I recognize this may be
30 changed to some extent in this hearing, but the Board

1 has always in the past looked at rather narrow geologi-
2 cal and economic criteria in assessing any particular
3 pipeline application. I hope this will improve but I
4 think with the membership being as it is, and the staff-
5 ing as it is, it will be very difficult for the Board to
6 broaden its terms of inquiry adequately.

7 A fourth point is the prob-
8 lem with the unavailability of information regarding a
9 particular pipeline project. The government, for exam-
10 ple, usually has done considerable amount of research
11 on a particular proposal and has discussed it within the
12 Civil Service and Inter-Departmental Committees, for
13 example, yet very little of this information sees the
14 light of day.

15 Now, I am a little confused
16 as to what commitments the Federal Government has given
17 as to the information that will be available with re-
18 spect to the MacKenzie Pipeline. I have heard some
19 statements that sound very encouraging from various federal
20 Cabinet Ministers but if I look at the past record, the
21 reality is a little bit different. For example, about
22 a year ago a report on the economic impact by the Civil
23 Service here in Ottawa was leaked to the Press and the
24 Minister of Energy refused to officially table that re-
25 port with the House of Commons. So, that report was out
26 and available through the Press and yet the Minister re-
27 fused to release it or to commit himself to release a
28 revised edition, so we have an example of a report that
29 we know exists, having been done within the Federal
30 Government, on the pipeline, a very important report,

1 but which was not committed for release.

2 Now, another point is the
3 problem in getting Civil Servants as witnesses. Again
4 many of these Civil Servants have spent a great deal of
5 time studying a particular application, and they know it
6 in great detail, and yet they are unable to be called
7 generally, certainly not without the permission of the
8 Minister, to appear and give evidence on a particular
9 application, and citizens groups are left to try and
10 struggle through the many pounds of material to inter-
11 pret and understand the application, which many Civil
12 Servants have spent weeks and months studying.

13 The sixth point would be the
14 timing of the National Energy Board hearings. Generally
15 there is less than a month between the filing of an ap-
16 plication and the requirement by the Board to file a
17 notice of intent to intervene. And associated with this
18 there is the problem that a group does not have the
19 right, the guaranteed right, to receive a copy of a
20 particular application. This is not protected by law.
21 It is at the discretion of the applicant. All the group
22 can do is see a copy in Ottawa or at the head office of
23 the company. He does not have his own copy of this mass
24 of material to go through and work on himself, which
25 makes it very difficult again to prepare an adequate
26 intervention.

27 MR. GOLDIE: I believe you have
28 of our application.

29 MR. OSLER: Yes, I should note
30 that with respect to Canadian Arctic Gas we do have

1 copies and I know a number of the groups do, but I am
2 pointing out some of the inadequacies of the decision
3 making process, and I think that this particular Inquiry
4 sets an important precedent and I hope that some of the
5 decisions and manner in which you choose to proceed here
6 will set an example for the National impact study which
7 will be coming along at a later date.

8 Another point is with respect to
9 deficiency statements by the National Energy Board.
10 There is often discussions between an applicant and the
11 Board as to problems with the first draft, if you will,
12 of the application, and the discussions and inadequac-
13 ies that are forthcoming in these discussions are not
14 made public. The public only sees the final application.

15 And lastly, there is the ques-
16 tion of the standing, which is a legal term implying
17 the right of any particular group to appear before a
18 Board. There is no guarantee at present within the
19 Act that a public interest group will have the right to
20 appear, and when we have tried often in the past, we
21 have been challenged by particular applicants.

22 So, Mr. Chairman, while I don't
23 want to dwell on that in detail, the major points
24 in that were that the decision making process at the
25 National level leaves a great deal to be desired, and
26 unless there are major changes in this particular form
27 of the National Energy Board, its fairness and objec-
28 tiveness will not be assured. We were therefore very
29 pleased to hear of the appointment of this particular
30 inquiry and of the choice of yourself as Commissioner,

1 and I would like to address myself to the nature of the
2 hearings as we would like to recommend they be held.

3 First of all, with respect to
4 the terms of reference of this Inquiry.

5 I believe the wording in the
6 Order-of-Council is that you are to enquire into and
7 report upon the terms and conditions that should be im-
8 posed in respect to any right-of-way, et cetera.

9 We would urge that the terms and
10 conditions in fact be very broadly interpreted by you.
11 For example, we would think that it would be quite with-
12 in your terms of reference to recommend, for example,
13 a different construction time table for the pipeline, as
14 opposed to that proposed by the applicant, or a differ-
15 ent routing for the line, or different construction and
16 operating techniques, or even alternative forms of
17 transporting the gas, and generally, whether or not the
18 pipeline as proposed should be built at all.

19 Now, with respect to the scope
20 of the hearings, we hope that you will in fact look be-
21 yond the mere pipeline itself, which we are constantly
22 told is only taking up a very small area of land in the
23 Northwest Territories. The implications from the assoc-
24 iated facilities and on the general direction of develop-
25 ment in the North are enormous. The pipeline, I think it
26 is fair to say, will set the pace and direction for
27 northern development for decades to come, and thus we
28 see the pipeline as being a very important precedent,
29 and that all its implications should be studied and
30 evaluated by this inquiry.

1 As an example, I think the
2 type of thing which should be within the scope of this
3 Inquiry would ^{be} the exploration that will result from a
4 pipeline being built. The implications of the gathering
5 facilities to get the gas from the mainland and even
6 from some of the artificial islands to the main trunk
7 line. The implications of the MacKenzie Valley Pipeline
8 which we know from various Cabinet documents was in fact
9 partially motivated, if not totally motivated, by a
10 desire to assist in subsequent pipeline construction, as
11 well as the implications from the proposed dam at the
12 Great Bear Lake which we know from various statements
13 by senior Civil Servants will have quite a bearing on
14 whether or not the pipeline goes ahead, because some of
15 this power is being considered for use by the pipeline.

16 We would also like to see
17 that the -- we would like to press for ensuring that the
18 impact on the social fabric of a pipeline in the North
19 will be studied, and on the political balance in the
20 Northwest Territories and the Yukon, as well as the
21 future developments which are likely to follow as a re-
22 sult of the pipeline.

23 In other words, we would urge
24 that this Inquiry take a very broad approach to the
25 scope of its inquiry and to the enormous implications
26 which a pipeline system would have in the North.

27 Thirdly, with respect to the
28 format of this Inquiry, we would accept the recommenda-
29 tions that have been given previously in the North for
30 the informal community hearing process that was discus-

1 ed, and to ensure that the project is in fact well ex-
2 plained in advance to the people in the North so that
3 they can discuss it in a manner in which they can relate
4 to, that is through the community hearing process. And
5 we leave the details of the format up to the groups in
6 the north to best advise you on how to truly get the
7 feelings of northern residents.

8 We would also suggest that
9 you do, as you have done to date, set up a staff that
10 will prepare questions on the application, and that if
11 the staff feels that some questions have not been asked
12 or adequately dealt with after the citizens have presented
13 their case and asked their questions, that the staff be
14 able to pursue some of these questions. In other words,
15 the citizens should have an opportunity to go first and
16 ask their questions and get points clarified, but if
17 there is still some outstanding questions in the minds of
18 your staff, that in fact the staff should be able to
19 pursue these questions, and also, of course, yourself if
20 you were so interested.

21 We would also recommend that
22 the bulk of the hearings be held in the North, in the
23 Northwest Territories and in the Yukon.

24 With respect to the infor-
25 mation that should be made available for these hearings
26 and this Inquiry, we all are very much aware that the
27 applicant in this case has treated us with a great deal
28 of information. Much of this is raw data, that has not
29 been put together in a coherent whole by and large.
30 There is little in the way of interpretative material,

1 and the conclusions and recommendations on the material
2 that has been filed are generally rather weak, particu-
3 larly on the impact assessment side. And I am sure that
4 we can take for granted that much of the material has
5 been carefully edited.

6 We also know that much of
7 the material is missing, that much of the research that
8 was done has not been made public and that information
9 is generally the information which was not very favour-
10 able to the application. For example, we know that
11 Professor Larry Stuecki did a fairly extensive report,
12 over a hundred pages long, on the Social Impact of the
13 Pipeline, and I could see no evidence of the studies
14 that Professor Stuecki had done being included in the
15 application.

16 Secondly, we also know that
17 Gemini North has done a great deal of research and
18 statistical work on this aspect, and the information
19 that appears on the sociological impact of the pipeline
20 can only be described as pathetic in quantity because
21 much of the background material does not seem to be pre-
22 sent in the material that has been filed to date.

23 These are just some examples
24 but we will want to be able to, and you will want to be
25 able to, I am sure, call some of the consultants that
26 have been involved in preparing the application, and to
27 get some more information and some of their ideas first-
28 hand. Similarly, the Federal Government has done a great
29 deal of research on this matter, not all their material
30 is yet public, but when they have finished their studies,

1 I am sure we should be able to call their witnesses for
2 further clarification as well.

3 Now, with respect to the
4 public participation in your Inquiry, I would urge
5 respectfully that you should take every step to encour-
6 age effective public participation in these hearings.
7 This would include providing funds to legitimate groups
8 for research and for participation at your hearings, for
9 it is simply impossible to do an adequate job without
10 such funding, and that I hope you will give priority to
11 groups which have a base in the North for funding assis-
12 tance.

13 Now, with respect to the
14 timing of the hearings, which is my last point, I think
15 there are a number of reasons, many of which have come
16 out so far in previous submissions, as to why the hear-
17 ings should not begin for at least a year, at least a
18 year from now.

19 First of all, there is the
20 question of the Land Claims. There doesn't seem to be
21 much doubt that the Native people in fact have legiti-
22 mate land claims in the North. The only question is
23 when these land claims will be settled. I believe you
24 have heard in prior Briefs that the Native people are
25 preparing their case now, and that they need additional
26 time before they are willing to bargain with the Federal
27 Government as to the land claims they wish to take.

28 I think it is very naive to
29 suggest that the land claims question can be settled
30 after a pipeline has been built in the North. As I sug-

1 gested earlier, a pipeline will set the trend and pace
2 of development in the North, and to say that the land
3 claims can be settled after the pipeline is built, is, I
4 suggest, very naive. I think we should make every
5 effort to ensure that these claims are settled before
6 any pipeline is built.

7 Secondly, with respect to the
8 Information Assessment Branch that has been set up with-
9 in the Federal Department of Indian Affairs here, I
10 would submit that it is unlikely that the group headed
11 by Doctor Fyles will have been able to put together a
12 **thorough** analysis by September of 1974, which is the
13 date, of course, that they are aiming for, but even if
14 it does, I think that that Assessment Group will have to
15 go back to the applicant and ask them to provide more
16 information, because on my reading through the applica-
17 tion and material that has been filed, there seems to be
18 a number of holes with respect to answering the guide-
19 lines, and all of this, I think, will take additional
20 time.

21 I mentioned the low quantity
22 and quality of the social impact work. The question of
23 the abandonment of the pipeline, I believe, is mentioned
24 in about six lines. I think there is a great weakness
25 on the assessment of the facilities that might also go
26 along in a Corridor such as a highway and other pipe-
27 lines which, of course, are required to be assessed by a
28 gas pipeline applicant according to the Expanded Guide-
29 Lines. I think the Government has failed in some
30 areas to do its homework because I haven't noticed it

1 declaring many sensitive areas, which it is intended to
2 do in the Guide-Lines.

3 Now, another point here with
4 respect to the timing of the hearings, I think it very
5 important that we look at some detail as to how these
6 particular hearings under your Inquiry will proceed vis-
7 a-vis the National Energy Board hearings, because frank-
8 ly I don't know that the Government has really sorted
9 out its position on this, and it is certainly very dif-
10 ficult for a layman to understand exactly how they will
11 relate and the timings, et cetera.

12 With respect to the question
13 of information, I would suggest that some of the inform-
14 ation which the applicant has indicated it intends to
15 file before the National Energy Board, will be required
16 in order for you to assess the Regional impact of the
17 pipeline proposal, and thus the filing of the material
18 before the National Energy Board must be available before
19 your hearings can commence.

20 As an example, I refer to
21 the gathering facilities in the North, and the associa-
22 ted plants used to process the natural gas. These will,
23 of course, have a regional impact, and yet there is no
24 mention of them and no details spelled out in the appli-
25 cation that has been filed to date.

26 Similarly, there will be a
27 study, we are told, on the macro economic effects of the
28 MacKenzie Pipeline in the material that will be filed
29 before the National Energy Board, and, of course, this
30 will have an impact on the regional economic impact.

1 And so I would suggest that it is very difficult to
2 assess the regional impact until we know what the macro
3 impact will be as well.

4 Secondly, with respect to the
5 actual hearings by the two Tribunals, I would suggest
6 there are many advantages in waiting to begin this
7 inquiry until in fact the NEB hearings are well under-
8 way. In fact, I sometimes get the impression that the
9 applicant is trying to get the regional hearings out of
10 the way so that they can concentrate on the national
11 hearings. The national hearings, we are told, are to
12 **decide** if the pipeline is to be built in the first place.
13 If the national hearings decide there will be no pipe-
14 line, then it really is a bit of a waste of time to go
15 through the regional impact question at first. Secondly,
16 the hearings before the National Energy Board, we are
17 told, will consider alternative methods of transporting
18 the gas. Now, if the National Energy Board decides in
19 its wisdom that an alternative mode of transport is
20 superior to a pipeline, then the regional impact will be
21 quite different, and if your hearings have been comple-
22 ted before the National Energy Board decision has been
23 made, then they will in all probability have to be re-
24 held or up-dated in light of this new information.

25 Thirdly, the National
26 Energy Board will consider the question of timing, of the
27 pipeline design, of the engineering specifications,
28 et cetera, and all these questions also have implications
29 for the regional impact of the pipeline, and thus I sug-
30 gest that it would be fruitless in many ways to have cer-

1 tainly concluded your hearings before the National
2 Energy Board ones start, and there are many advantages,
3 as I suggested, in waiting until the Energy Board hear-
4 ings are well underway before commencing yours.

5 My last point in this respect
6 would be the problems as we have heard expressed this
7 morning, and that you have heard in the North, with re-
8 spect to getting effective community involvement in this
9 proposal. It takes a great deal of time for the north-
10 ern groups and communities to absorb this material and to
11 understand it in a way in which they can really have a
12 feel for it, we have been told. It takes time to set up
13 the research and field offices, as have been proposed,
14 and we would submit that the request by the groups in
15 the north for a hearing delayed until at least the
16 spring and possibly the summer of 1975 is quite a reason-
17 able request. This will enable the groups and the people
18 in the North to communicate the information to northern
19 residents on the pipeline and to assure that there will
20 be adequate and representative feed-back on the proposal.
21 I think that much of the information that has been filed
22 by the applicant will have to be tested in the northern
23 communities as well, and this will give us an opportun-
24 ity to see what the reaction will be here.

25 In conclusion then, Mr.
26 Commissioner, I would like to stress again how important
27 we view these particular hearings and this particular
28 decision to be in terms of the direction of Canada for
29 the next decade at least. And thus it is very important
30 that the decision making process on this particular ap-

1 plication be the best possible to ensure that the
2 national interests will in fact be met. I hope that you
3 will take steps to ensure that the regional participants
4 can be as effective as possible and that you will per-
5 haps encourage, through your example, a more effective
6 decision making process at the national level. I hope
7 you will not rush into these hearings and that you will
8 provide time for the people in the North to sort out the
9 material that has been put before them, and to discover
10 its inadequacies and assess the impact on their lives.

11 Thank you very much.

12 THE COMMISSIONER: Thank you,
13 Mr. Osler. There were some documents you offered to
14 file as exhibits.

15 Mr. Osler has handed me Pollution
16 Probe's Background Statement on the Arctic, March 28th,
17 1972, Revised April 12th, 1972. That will be marked as
18 an Exhibit. And Mr. Osler has handed me Spécial Arctic
19 Report #2 of The MacKenzie Valley Highway by Pollution
20 Probe at the University of Toronto, October 19th, 1972.
21 That will be filed as an Exhibit.

22 I should add that these state-
23 ments that have been introduced this morning will be
24 reproduced, copies will be made during the luncheon re-
25 cess, and after lunch you can speak to Miss Hutchison
26 and get copies of any of these submissions that you wish
27 to have.

28 I think that we will adjourn in
29 a minute but I was going to suggest that before we ad-
30 journ, it might be an appropriate time now to ask Doctor

1 Fyles on behalf of the Assessment Group to say something
2 about the work of the Assessment Group and you can per-
3 haps absorb that intelligence during lunch and when we
4 come back, we can go to the groups and persons still re-
5 maining to be heard.

6 (POLLUTION PROBE - Special Arctic Report #2 - MARKED
7 EXHIBIT NO. 25(a).)

8 (POLLUTION PROBE - Background Statement on the Arctic. -
9 MARKED EXHIBIT NO. 25(b).)

10 THE COMMISSIONER: Dr. Fyles,
11 would you mind coming up. I don't know whether you would
12 like to use this microphone or this one over here. You
13 don't have to speak --

14 DOCTOR FYLES: Mr. Commissioner,
15 I would like to say a few words about the Pipeline
16 Application Assessment Group to amplify what has been
17 provided in your introductory statement, and, of course,
18 we are quite prepared to answer any questions to elabor-
19 ate the relatively small statement I will make.

20 The Pipeline Application Assess-
21 ment Group has been set up in response to concerns that
22 the Canadian Arctic Gas application is large and complex
23 and that only a small number of specialists are knowledg-
24 able about the area and the subject. Now, this is a
25 governmental group assigned to review and appraise the
26 Canadian Arctic Gas application in terms of its socio-
27 economic and environmental implications within the
28 Northwest Territories and the Yukon Territory. The
29 assessment is designed to be generally useful to govern-
30 mental agencies both Federal and Territorial that are

1 concerned with the application, and also to provide
2 information for this Inquiry and for the inquiry of the
3 National Energy Board.

4 The Group will proceed in-
5 dependently in doing its task. Its findings will be
6 released in a public report. These findings will not be
7 binding on any group or agency, but various groups may
8 choose to use or adapt the findings to meet their own
9 interests and responsibilities.

10 The Group operates under the
11 Inter-Departmental Task Force and Northern Oil Develop-
12 ment through its Environmental Social Committee. It is,
13 however, separate from the Environmental Social Research
14 Programme of that Committee and is not tied to the find-
15 ings of that programme, rather it will draw upon all
16 previous and presently available information.

17 In conducting the assessment
18 particular attention will be paid to the environmental
19 and social concerns set out in the 1972 Guide-Lines for
20 Northern Pipelines. The Group has been brought together
21 to take advantage of expertise residing within Government
22 and to use available specialists in a co-ordinated way.
23 A Corps Group has been seconded on a full-time basis
24 from various agencies, chiefly within the Department of
25 Indian and Northern Affairs, the Department of Environ-
26 ment, Department of Energy, Mines and Resources, and the
27 two Territorial governments. The composition of this
28 Corps Group is recorded on the list which is available to
29 you. The Corps Group will have access to a variety of
30 additional specialists from various places in government

1 and including some outside consultants, and is to draw
2 upon these people for short periods as and when re-
3 quired.

4 Thank you.

5 THE COMMISSIONER: Thank you,
6 Doctor Fyles. I think I should say that after we have
7 heard the presentations of the groups that still remain
8 on the list, and the persons who still remain on the
9 list, and I will call upon these groups and persons this
10 afternoon, Mr. Page for the Committee for an Independent
11 Canada, Mr. Woodford on his own behalf, and I will ask
12 Mr. Waddell to read the submission by
13 Canadian Scientific Pollution and Environmental Control
14 Society, and anyone else who wishes to make a submission
15 this afternoon, in writing or orally, just speak to Mr.
16 Waddell. Oh yes, there is as well the Federation of
17 Ontario Naturalists, Mr. Selbie, and the Canadian
18 Environmental Law Association. We will hear all of you
19 this afternoon, whose names I have just announced, but
20 if there is anybody else who has a submission to make,
21 just come up and give your name to Mr. Waddell when we
22 break for lunch.

23 There is one other matter.
24 When the preliminary hearings were being held in
25 Yellowknife and in Inuvik and in Whitehorse, the Canad-
26 ian Arctic Resources Committee and Arctic Gas both in-
27 dicated that they intended at these preliminary hearings
28 in Ottawa to make further submissions on the question
29 of the scope of this inquiry and the interpretation of
30 the terms of reference in the Order-in-Council and in

1 the Pipeline Guidelines, and I intend to call upon them
2 after we have heard the remainder of the submissions
3 from those groups and persons that I have named. I
4 should say that some of those groups and persons who
5 spoke this morning have discussed the proper scope of
6 this Inquiry and the interpretation that ought to be
7 given the Order-in-Council and the Guidelines. If you
8 have anything further to say on that subject, I will
9 give you an opportunity to do so after I have heard
10 from Canadian Arctic Resources Committee and Arctic Gas.
11 I am not inviting you to go over all the ground again,
12 because I haven't forgotten all that has been said so
13 far, but if you wish to say something in response to
14 what Canadian Arctic Resources Committee and Arctic Gas
15 say later on, when we reach them, I will give you an
16 opportunity to do that.

17 Well, I think we will ad-
18 journ then until 2:15.

19 (PROCEEDINGS ADJOURNED TO 2:15 P.M.)

20 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

21 THE COMMISSIONER: I will
22 call our meeting to order this afternoon, and I think
23 that we will start off with the submission by Spec, the
24 Canadian Scientific Pollution & Environmental Control
25 Society of Vancouver, B.C. Their submission has been
26 made in writing but they have asked that it be read and
27 I will ask Mr. Waddell to read it now.

28 MR. WADDELL: "Dear Mr.

29 Berger:

30 This letter contains SPEC's

1 " recommendations and comments regarding the practice
2 and procedures concerning the MacKenzie Valley
3 Pipeline Inquiry. Due to the distance between
4 British Columbia and the cities in which the pre-
5 liminary public hearings are being held, we are
6 unable to appear in person.

7 We welcome these hearings as
8 the proper means to establishing the ground rules
9 for the creation of an effective public hearing on
10 the land use and right of way application by
11 Canadian Arctic Gas Pipeline Limited for its pro-
12 posed pipeline project.

13 The decision on the fate of
14 the proposed pipeline will be the most important
15 for Canada since the decision was made to build the
16 Canadian Pacific Railroad. Involved are questions
17 which will have a tremendous effect on the future
18 of Canada. The questions are:

- 19 1. the conservation of finite energy re-
20 sources
- 21 2. the foreign ownership of Canadian natural
22 resources and natural resource companies
- 23 3. the maintenance of healthy ecosystems
- 24 4 the settlement of native peoples land
25 claims

26 The decision cannot be made
27 by government and industry alone. Their input can
28 only reflect certain self-interests which are in-
29 adequate for a decision-making of this magnitude.
30 And while their input in past major natural resource

1 " development decisions may have been adequate, today,
2 it is not. National and world resource/population
3 relations are changing too rapidly. If Canada
4 hopes to adjust and maintain some stability through
5 these changes, new concepts and ideas must be
6 developed and implemented. We suggest an important
7 source of these lay in the pool of public knowledge,
8 or public conscious if you will. Like the botanist
9 who draws from the world pool of genetic plant
10 strains to develop new hybrid wheat for survival in
11 new climates, Canada must draw from the pool of
12 conscious to develop new hybrid social values for
13 survival in rapidly altering resource conditions.

14 The forthcoming inquiry can
15 be an effective method to stimulate and develop the
16 new social values.

17 The Inquiry must be of an
18 adversary nature. In this manner, and this manner
19 alone, can all information be brought to public
20 scrutiny, and decisions be made thereof. The
21 Inquiry must provide a fair and objective hearing,
22 with impartial judges and equal opportunities for
23 opposing groups to present their case. "

24 The heading: "FUNDING

25 ADVERSARY PRESENTATIONS

26 We find the largest obstacle
27 to a fair and objective hearing is the cost of
28 intervention to the public and its representative
29 groups. Full intervention can cost hundreds of
30 thousands of dollars in legal fees, expert witness

" fees, travel and accommodations, and research expenses. For one side in the Inquiry to have the funding and the other to not will result in an unfair and an ineffective hearing.

For the purpose of the Inquiry we recommend the Department of Indian and Northern Affairs provide funds for two separate groups of opponent intervenors. The first group would include the Native peoples and their interests. The second group would include persons and groups concerned about protection of the environment.

Each of the two groups, in consultation with the Department of Indian and Northern Affairs, would choose among themselves the mechanisms and methods they would develop to use the services provided by the Department funding. We recommend each group be provided the following:

1. the immediate employment of two full-time lawyers chosen by the group, for the full term of the Inquiry
2. the immediate employment of a staff of one secretary and one research assistant, chosen by the group, for the full term of the Inquiry.
3. the transportation and accommodation for lawyers, their staff, and witnesses, related to Inquiry business
4. the purchase of relevant documents and transcripts
5. fees for expert witnesses' appearances be-

" fore the Inquiry

6. office and equipment rentals, and purchase
of office supplies.

7. funding for one co-ordinating meeting of
group representatives

We would consider the funding procedure outlined here as the minimum towards equalizing public adversary input. With funding any less than this the Inquiry would be ineffective."

Under the heading: "ESTABLISH
INQUIRY BOARD

We recommend an Inquiry Board be established. The Board will be responsible for making decisions as a result of the information brought to light by the Inquiry.

We recommend the Board be composed of at least five members, with each member having one vote. One member would be yourself, you would sit as chairman. The others would be appointed by the Department of Indian and Northern Affairs, in consultation with you.

Each of the four appointees must be chosen from the following interest areas:

1. native peoples
2. environmental protection
3. Northwest and Yukon Territorial Governments
4. natural gas industry "

Under the heading: "CLARIFY
DUPLICITY

1 " It is our understanding the
2 Inquiry will be concerned with 'the terms and con-
3 ditions that should be imposed in respect of the
4 application by Canadian Arctic Gas Pipeline Limited
5 for a right of way that might be granted across
6 Crown lands within the Yukon Territory and the
7 Northwest Territories for the purpose of the pro-
8 posed MacKenzie Valley Pipeline.' And that the
9 guidelines for judging the social and environmental
10 impacts are 'set out in the Expanded Guidelines for
11 Northern Pipelines as tabled in the House of
12 Commons on June 28, 1972....'

13 We would like this point
14 clarified, as it is our understanding the Expanded
15 Guidelines for Northern Pipelines was established
16 for the National Energy Board's hearing on Canadian
17 Arctic Gas Pipelines' application for a Certificate
18 of Public Convenience and Necessity. Will the
19 National Energy Board hearing duplicate the Depart-
20 ment of Indian and Northern Affairs Inquiry in its
21 investigations? "

22 Under the heading: "EXPAND
23 THE EXPANDED GUIDELINES FOR NORTHERN PIPELINES

24 The Expanded Guidelines for
25 Northern Pipelines, if they are to be used as the
26 terms of reference for the investigation of environ-
27 mental and social impacts of the MacKenzie Valley
28 Gas Pipeline, must be expanded.

29 The Guidelines, first estab-
30 lished August 13, 1970, then expanded June 28, 1972,

1 " must be expanded again to reflect changing social
2 values and the development of additional knowledge
3 on the northern environment and its people. The
4 Guidelines must be expanded to include the follow-
5 ing:

6 1. All development aspects related to exploration,
7 extraction, processing and transportation of the
8 natural gas. This includes such things as seismic
9 exploration, wildcat drilling, processing plants,
10 feeder and collector pipelines, and power genera-
11 tion for pipeline compressor and refrigerator
12 units (if the power is other than the natural gas
13 itself).

14 The MacKenzie Valley pipe-
15 line must be considered in its entirety. To con-
16 sider the trunk line alone is illogical and incom-
17 plete, for it will be the entire project which will
18 have a land use impact on the North.

19 2. All population and secondary industry aspects
20 related to the construction and operation of the
21 pipeline.

22 Pipeline construction and
23 operation will be directly responsible for drawing
24 people and secondary industries to northern commun-
25 ities such as Inuvik, Aklavik and Tuktoyaktuk.
26 While the pipeline construction project will hire
27 and house approximately 7500 work personnel in
28 specially designed and specially regulated work
29 camps, it will also draw twice again as many
30 people - be they children and wives, work personnel

1 " for secondary support and service industries or
2 tourists - to the established communities. Guide-
3 lines must be established to manage the social and
4 environmental problems posed by this rapid growth.
5 It is conceivable the communities, if left unregula-
6 ted, will create the greatest amount of harm to the
7 Native peoples and the environment.

8 We see at least four prob-
9 lems which must be considered by this Inquiry:

- 10 1. Social impact on Native peoples
- 11 2. Water pollution from sewage, solid and
12 chemical waste, disposal.
- 13 3. Air pollution from automobile exhausts and
14 oil-fired thermal electric generating plant
15 air emissions
- 16 4. Wildlife depletion from over hunting and over
17 fishing "

18 And under the heading:

19 "CHANGE ORDER OF INQUIRY

20 The Indian and Northern
21 Affairs' Department Inquiry cannot precede the
22 National Energy Board hearings. The Federal
23 Cabinet must first determine whether or not the
24 pipeline project will proceed, before land use and
25 right-of-way can be considered. The Cabinet can
26 only make this decision following a National Energy
27 Board public hearing on the application for a Cer-
28 tificate of Public Convenience and Necessity by
29 Canadian Arctic Gas Pipeline Limited.

30 We ask, therefore, that the

1 " proper order be followed in decision-making with
2 regards to the pipeline, and request the Department
3 of Indian and Northern Affairs delay their inquiry
4 until after the National Energy Board has held its
5 hearings and the Cabinet has made its decision or
6 whether or not --"

7 That should be "of whether
8 or not to proceed with the pipeline. "

9 Under the heading: "SUPPORT
10 NATIVE PEOPLES LAND CLAIMS REQUEST"

11 We support the Native peoples
12 request that a land settlement precede any work on
13 the proposed pipeline project.

14 This concludes our presenta-
15 tion. We commend you and the Department for open-
16 ing consideration of Inquiry practice and procedures
17 to public input.

18 If this presentation reaches
19 your department in time for the Ottawa preliminary
20 hearing, we request it be read aloud at the hearing."

21 Signed: "Environmentally
22 yours, 'Gary Gallon' --

23 That is G-A-L-L-O-N.

24 "Chairman, Energy Committee,
25 SPEC Federation".

26 THE COMMISSIONER: That docu-
27 ment will be marked as an exhibit then.

28 (LETTER, DATED MAY 2, 1974, CANADIAN SCIENTIFIC POLLU-
29 TION & ENVIRONMENTAL CONTROL SOCIETY. (SPEC) MARKED
30 EXHIBIT NO. 26.)

1 THE COMMISSIONER: Mr. Page
2 for the Committee for an Independent Canada.

3 MR. PAGE: Mr. Commissioner,
4 the Committee for an Independent Canada appreciates
5 greatly this opportunity to express some of our wishes
6 and some of our hopes.

7 The Committee for an Inde-
8 pendent Canada is a national organization with branches
9 from the Atlantic Provinces to Vancouver Island and from
10 Southern Ontario to Inuvik. For the last two years we
11 have been doing research on this project with the pri-
12 mary focus on the economic impact of this project on
13 Canada. We will be intervening before the National
14 Energy Board but our experience thus far may be of some
15 interest in developing the format for your own hearings.

16 The MacKenzie Valley Pipe-
17 line proceedings will be crucial to the whole future
18 development of Canada, not only because of the immense
19 significance of this project, but because it will de-
20 fine the decision making process for a whole series of
21 massive projects to follow such as Polar Gas. These
22 hearings, along with those of the National Energy Board,
23 must be seen as two parts of the same process; hence my
24 comments today will not be confined exclusively to your
25 own hearings.

26 First, in connection with
27 the location for your hearings. We in the CIC believe
28 that the primary responsibility in your hearings must
29 be for the northern locale. This is particularly true
30 for the land and ecological questions. We applaud your

1 own decision, sir, at these preliminary hearings and
2 hope that it will become standard practice for all
3 future hearings of DINA, EM & R, and the Department of
4 Environment.

5 Secondly, in connection with
6 the timing of your hearings. We would strongly urge that
7 you allow at least one year's delay before your main
8 hearings open. This is essential so that the Native
9 organizations and public interest groups such as our
10 own can do the necessary background work. We received
11 our copy of the application from Canadian Arctic Gas
12 about three weeks ago. We have found some deficiencies
13 in this application, but it will require months of work
14 to prove our points. Canadian Arctic Gas have had five
15 years to build their case. We deserve one year to weigh
16 and judge their evidence.

17 Thirdly, Pre-Condition on
18 Land Claims. We in the Committee for an Independent
19 Canada believe that in order for the hearings to be held
20 in a proper atmosphere, there should be a public state-
21 ment from the Government that there will be no construc-
22 tion work begun prior to a full settlement of the land
23 claims of Canada's Native peoples. This point **should**
24 be very clear to all Canadians who in the last few weeks
25 may have watched the CBC series "The National Dream", be-
26 cause 90 years ago the Macdonald Government pushed ahead
27 with settlement and the building of the CPR before
28 settling the legitimate claims and grievances of the
29 Indian and Metis population. The result was rebellion
30 by a people driven to it by a government more concerned

1 with commercial development than with basic human rights.
2 The circumstances are different but the type of develop-
3 ment is the same. Today, as in the days of Sir John,
4 a government wishes to press ahead without a full settle-
5 ment with the Native Peoples so directly involved.

6 In addition, the posi-
7 tion of the present Mr. Macdonald assumes that it is only
8 a matter of the size of the cash settlement to be worked
9 out. This assumes the type of settlement to be made and
10 weakens the bargaining position for the Native peoples
11 before those talks begin. So that if we desire an objec-
12 tive nature for the hearings, and a proper atmosphere
13 for them, this should all be cleared up in advance.

14 Fourthly, in terms of
15 Economic Data. A further reason for delay at this
16 point is the incredibly scanty information yet available
17 from Canadian Arctic Gas on the economic structure of
18 their project. That Canadian Arctic Gas were unable to
19 file their full application this spring as expected is a
20 clear confession on their part that they cannot justify
21 yet the economics of their proposal to the Canadian
22 people. This is a further reason for caution and no
23 hearings should begin until the full application has been
24 public for six months.

25 A further aspect of that, Mr.
26 Commissioner, is that at this point we cannot comply with
27 your request for an estimated time for the hearings until
28 we see this economic data and can therefore assess the
29 necessary time that will be involved in our own research
30 prior to the National Energy Board's hearings.

1 Next, I want to move on for
2 a couple of moments to the whole question of public in-
3 formation and the decision-making process in Canada.

4 In the consideration of the
5 Pipeline proposal there are three sources of information
6 on this project.

7 First, is Canadian Arctic
8 Gas who after \$68 million and five years of work have
9 produced their case in the most favourable light pos-
10 sible. The reports of outside consultants included in
11 the application have already been doctored and abridged
12 to conform to the general arguments of Canadian Arctic
13 Gas.

14 This is their case and such
15 techniques are to be expected.

16 Secondly, in terms of public
17 information, is the role of Government studies. Thus
18 far, millions from the public treasury have been expended
19 on research into the project, but virtually nothing has
20 been released. For instance, a key government report
21 produced by a high level inter-departmental task force
22 on the economic effects of a proposed arctic pipeline
23 was never officially released. It is a curious co-
24 incidence that that report pointed out the damage to the
25 Canadian economy such a project could do. Our worries in
26 this direction are in no way relieved by the Assessment
27 Group which the government has appointed. This group will
28 no doubt screen and censor all government documents com-
29 ing through to your Inquiry, and their criticisms of the
30 project may be confined to narrowly technical details.

1 They could easily become a means of white wash or cover
2 up rather than a means of exposing the weaknesses of
3 the proposed pipeline.

4 It is refreshing, however,
5 to see that some Ministers in the present government
6 have recognized the anti-democratic nature of this
7 situation. In September 1969, in a speech to the
8 Canadian Bar Association, the then Minister of Justice,
9 Mr. John Turner, spoke about the necessity of public
10 access to government information. And I quote:

11 "Government secrecy is something legitimated as the
12 state's right to privacy, but it may well be a
13 denial of the public right to know. If individual
14 privacy is a foundation of democracy, the citizen's
15 right to know is fundamental to any participatory
16 democracy. The public cannot be expected to dia-
17 logue meaningfully - still less decide - if it is
18 refused the very information which would make such
19 a dialogue and decision making possible."

20 End of quote.

21 The current policy for with-
22 holding documents (announced the 15th of March 1973)
23 defines 16 categories, and these categories are so broad
24 and loosely defined, almost anything can be kept secret.
25 Under these present restrictions there is no possible
26 way that the public can know, understand, or to use Mr.
27 Turner's phrase, "dialogue meaningfully" on the
28 MacKenzie Valley Pipeline proposal.

29 We urge strongly for the
30 success of your Inquiry that two changes be made:

1 (1) The publication of all government research
2 relevant to the pipeline before the hearings
3 open.

4 And (2) Your Inquiry have the power of subpoena over
5 Civil Servants where questions arise over
6 their written reports.

7 Otherwise, millions of
8 dollars worth of research done with public funds may be
9 lost from the public debate and the electorate would be
10 forced to conclude that the government did not trust
11 them with the facts.

12 The third area, in terms of
13 information on this topic, is the Public Interest
14 Groups.

15 Now, because the government
16 has been unable to act thus far as honest broker on this
17 issue, a number of public interest groups such as the
18 CIC, Pollution Probe from Toronto, Canadian Arctic
19 Resources Committee, have stepped in to attempt to fill
20 the void. Challenging corporate planners before govern-
21 ment regulatory bodies is usually a prohibitively expen-
22 sive operation, and it might be useful to outline the
23 difficulties we are facing in preparing our intervention
24 before the NEB.

25 (1) With exorbitant legal costs for counsel for
26 the full hearings, the travelling costs of all
27 our expert witnesses, and the research costs,
28 we would have to raise about \$160,000.00 all
29 told.

30 (2) The restrictive terms of reference under which

1 the NEB hearings operate could exclude evidence
2 vital to a full consideration of the pipeline
3 proposal.

4 From the above it is evident
5 that only the Public interest groups can provide the
6 other side which in theory is essential for Adversary
7 hearings such as the NEB. However, unless there is
8 public funding and a change in the NEB guidelines,
9 there is a very real threat the whole process will be a
10 farce and a rubber stamp for corporate planning of the
11 multinationals.

12 If, sir, you choose to estab-
13 lish hearings with these two reforms in mind, it might
14 help to prod the government into reforming the NEB as
15 well. Otherwise, I fear your independence might lead
16 to one conclusion and the NEB to the opposite.

17 In conclusion, I have one
18 last fear about this decision making process. The
19 government have already announced their support for
20 building the pipeline, and the officials of Canadian
21 Arctic Gas are very worried that they will lose out to
22 the All-American route of El Paso across Alaska, unless
23 it appears to the Nixon Administration, or its successor,
24 that the pipeline will go through quickly.

25 I hope, sir, that you and the
26 members of the National Energy Board will resist any
27 pressure to speed up your deliberations because the
28 issues involved in this, the largest project in Canadian
29 history, are massive and complex. All future generations
30 of Canadians will have to live with the results of your

1 work.

2 Thank you, sir.

3 THE COMMISSIONER: Thank
4 you, Mr. Page. That document will be marked.
5 (BRIEF - COMMITTEE FOR AN INDEPENDENT CANADA - MARKED
6 EXHIBIT NO. 27.)

7 THE COMMISSIONER: Mr.
8 Woodford.

9 MR. WOODFORD: Mr. Commis-
10 sioner, my name is Jim Woodford. I am a writer. I
11 should say I have somewhat of a conflict of interests
12 here because I do write things on the MacKenzie Valley
13 Pipeline in the North, and possibly I might make some
14 money out of the outcome of the hearings.

15 I would like to suggest,
16 sir, that these hearings should be delayed for a mini-
17 mum of two years, and I suggest there are two basic
18 reasons to support this: one is the land claims by the
19 Native peoples, and also the environmental research
20 deficiencies.

21 Now, I would like as a white
22 southern Anglo-Saxon agnostic to support the claims of
23 the people of the North. I don't want to go into the
24 long quote I have in my brief, but suffice to say that
25 much of what has been done to these citizens in the
26 past was initiated in days of less knowledge and concern
27 for civil and minority rights. I don't think there is
28 any excuse for repeat of this in the 1970's.

29 The environmental research
30 deficiencies, the important point here is that the

1 Government of Canada has not yet begun a research pro-
2 gramme into the effects a cold, buried natural gas
3 pipeline will have on the northern environment. Now,
4 if the Government is to adequately and scientifically
5 assess the data submitted by the applicant on this vital
6 aspect, it must have conducted a research programme to
7 provide baseline data, but despite a large volume of
8 research projects, this basic research has not been
9 undertaken, and thus the Government will not be able to
10 state whether or not a cold, buried natural gas pipeline
11 -- that's a good thing for a writer, a double negative --
12 will or will not cause changes in the northern environ-
13 ment.

14 Now, even the applicant,
15 through the Environment Protection Board (sponsored and
16 funded by Canadian Arctic Gas Study (Pipeline) Limited),
17 admits that it will be some years before there is ade-
18 quate material to assess the effects of the pipeline on
19 the northern environment, as the following quotation
20 from "Towards an Environmental Impact Assessment" shows:

21 "Despite the seemingly large amount of time, effort
22 and money spent by numerous agencies to obtain
23 environmental data pertinent to this project, there
24 is not now nor will there be for a number of years
25 enough research done and data available to estab-
26 lish, on a scientific basis, the full impact of any
27 large scale engineering work on the northern enviro-
28 nment. As was expected at the outset, the apprai-
29 sal of impact for this project will in many instan-
30 ces have to be made on the basis of some research

1 " plus considerable experience and judgment."

2 This was written and published in 1973.

3 Another important considera-
4 tion is the research undertaken by the Arctic Land Use
5 Research Committee and the Environmental-Social Commit-
6 tee, Northern Pipelines. Now, while a great deal of
7 interesting data has been acquired through these pro-
8 grammes, much of the data are of a preliminary nature.
9 Many of the reports contain **extensive** recommendations
10 "Needs for Further Study". All of these studies should
11 be assessed by an independent environmental assessment
12 committee.

13 And to me, sir, this does not
14 mean the Doctor Fyles group.

15 DISCUSSION: No hard evi-
16 dence has been produced to this time, by either the ap-
17 plicant or the Government of Canada to show that this
18 project is vital to the energy needs of Canadians. What
19 is evident, however, is that when the Alyeska Trans
20 Alaska Pipeline is completed from Prudhoe Bay to Valdez,
21 and oil production commences, there will be a substantial
22 volume of gas which must be marketed, since the State of
23 Alaska prohibits the flaring of natural gas.

24 The volume of gas produced,
25 when the oil pipeline is operating, at full capacity, is
26 estimated at about 2 billion cubic feet per day. This is
27 about half the volume required to fill a 48-inch pipe-
28 line, the size suggested if the project is to be economi-
29 cally viable. Thus the plan is to combine equal volumes
30 of Prudhoe Bay gas and MacKenzie Delta gas. Now, to my

1 knowledge, no Canadian company has signed contracts to
2 buy MacKenzie Delta gas. I would suggest, sir, the
3 Inquiry should investigate this important aspect concern-
4 ing the timing of the proposed pipeline, for at the
5 present time it appears that the rush to obtain permis-
6 sion to construct it is for American rather than Canad-
7 ian concerns.

8 Now, I have seven recommend-
9 ations:

10 (1) - There should be a minimum delay of two years
11 in the start of hearings into the application
12 to build a gas pipeline through the Northwest
13 Territories and the Yukon.

14 (2) - The Inuit, Indian and Metis peoples must be
15 given adequate time and financial support to
16 allow them to prepare their land and other
17 claims.

18 (3) - The Government of Canada must begin a research
19 programme designed to assess the effects of a
20 cold, buried natural gas pipeline on the
21 northern environment. Such a programme would
22 take a minimum of two years to complete.

23 (4) - The Government of Canada should establish an
24 independent environmental assessment commit-
25 tee --

26 You already have an excellent biologist on your staff
27 who possibly could head this up.

28 -- to look at all the environmental research
29 completed to date. This committee should
30 issue public reports on its findings, but with

1 particular reference to deficiencies.

2 (5) - Funds should be provided by the MacKenzie
3 Valley Pipeline Inquiry to allow public
4 interest groups such as the Committee for an
5 Independent Canada, Pollution Probe, Canadian
6 Arctic Resources Committee, to prepare and
7 present submissions to your Inquiry.

8 (6) - The MacKenzie Valley Pipeline Inquiry should
9 establish offices and staff completely inde-
10 pendent of any Government department.

11 (7) - The interim and final reports of the Mac-
12 Kenzie Valley Pipeline Inquiry should be re-
13 leased to the public domain when they are
14 presented to the Government of Canada.

15 Thank you, sir.

16 THE COMMISSIONER: Thank you,
17 Mr. Woodford.

18 Mr. Woodford's submission
19 will be marked as an Exhibit.

20 (SUBMISSION BY JAMES WOODFORD MARKED EXHIBIT NO. 28.)

21 THE COMMISSIONER: Mr. Lowe
22 of the Canadian Environmental Law Association.

23 MR. LOWE: Mr. Commissioner,
24 my name is John Lowe. I am a staff member with the
25 Environmental Law Association in Toronto. I am working
26 presently on an Environmental Impact Study Group and I
27 have been working there for a year. I am not a lawyer
28 but David Astronew (?) is our General Counsel and he
29 is also here today, so if there is any more detailed
30 questions on some points of the brief, perhaps he could

1 assist me on some of these in the light of time.

2 The Canadian Environmental
3 Law Association is a National non-profit organization of
4 citizens, scientists and lawyers dedicated to enforce-
5 ment of present environmental laws and to maximizing
6 public participation in environmental planning.

7 The Association was founded
8 in 1970, along with the Canadian Environmental Law
9 Research Foundation, in part because of the frustration
10 which citizens face with reference to environmental
11 problems in dealing with the seemingly inaccessible legal
12 and administrative system, and in part because of the
13 lack of knowledge of those local remedies that do exist
14 to stop environmental degradation.

15 In order to fill this gap,
16 the Association established a panel of lawyers in most
17 Provinces and in the Territories who are willing to take
18 cases without charge, if necessary, in environmental
19 situations where legal assistance would otherwise not be
20 forthcoming.

21 Through our Toronto Office
22 lawyers with the Association provide advice to approxi-
23 mately 500 complainants per year, which in many instances
24 result in positive action by Government agencies or in
25 the complainants obtaining further legal advice and
26 assistance through the CEL panel of lawyers.

27 In order to more effectively
28 inform the Public about their environmental rights and
29 remedies and the legal reforms necessary for the estab-
30 lishment of a healthier and safer environment, the Associa-

1 tion and the Foundation jointly published in February of
2 1974 "Environment on Trial, a Citizen's Guide to
3 Ontario Environmental Law", the first Canadian book
4 outlining these areas in layman's terms.

5 Because of the work being
6 done in this critical area by the Association, it has
7 attracted a membership of about 500 from every segment
8 of the Public, in addition to the membership and sup-
9 port of many local, provincial and national organiza-
10 tions.

11 In addition to examples of
12 our activities given in the body of this submission, the
13 following further illustrates some of the efforts that
14 lawyers from the Association have made in an attempt to
15 establish better environmental rights for the general
16 public.

17 In the Environmental Assess-
18 ment context, our Association, as I have said, formed
19 an Environmental Impact Assessment Study Group which
20 has now been working for a year studying procedures for
21 -- by which environmental impact assessment should be
22 done and the best procedures for implementing them.
23 Some of the work of that Study Group has included the
24 publication of a white paper on Environmental Assessment
25 in response to the recent Ontario green paper on
26 Environmental Assessment, and this outlines an
27 independent method of assuring a just and fair method of
28 an environmental assessment which would include a public
29 participation process.

30 THE COMMISSIONER: Excuse me,

1 in response to the Ontario what?

2 MR. LOWE: Green paper on
3 Environmental Assessment.

4 THE COMMISSIONER: That is
5 the Ontario Government?

6 MR. LOWE: That is right,
7 yes.

8 Now, also recently, we have
9 been monitoring the Ontario Energy Board and some of the
10 procedures and environmental implications which will re-
11 sult as a result of some of that Board's decisions.

12 On more specific matters,
13 our General Counsel assisted some environmental groups
14 in determining some of the legal ramifications from the
15 environmental impact done in the Lake Louise project.

16 Also, the Vancouver Branch
17 of the Canadian Environmental Law Association in January
18 of 1973 successfully argued in Whitehorse that the first
19 licencing application for a water diversion/^{permit} under the
20 Northern Inland Waters Act was procedurally and substan-
21 tively inadequate.

22 There are several elements
23 pre-requisite to an effective hearing procedure which the
24 Canadian Environmental Law Association feels must be
25 recognized at the MacKenzie Valley Pipeline Inquiry.

26 Underlying these elements is
27 a basic need for balancing the inherent inequities be-
28 tween contesting parties at the Inquiry, Procedural
29 safeguards which take account of these inequities should
30 be incorporated into the hearing process.

1 It is our intention, in this
2 submission, to outline the most important issues which
3 we feel must be recognized and resolved.

4 FUNDING FOR ENVIRONMENTAL
5 GROUPS, THE NEED.

6 The Canadian Environmental
7 Law Association believes that adequate funding for in-
8 tervening environmental groups appearing at the Inquiry
9 must be assured if a truly representative case in asser-
10 tion of environmental interests is to be maintained.

11 Donald Wright, a former
12 counsel for People or Planes, a group contesting the
13 proposed new Toronto airport, said recently, in reference
14 to the Commission inquiring into the feasibility of the
15 airport, quote:

16 "Citizens' groups lack money to make an adequate
17 presentation, thus --"

18 he argued:

19 "-- the Commission cannot hold a fair and thorough
20 hearing."

21 Impecunious environmental
22 groups, while capable of mustering considerable voluntary
23 aid, cannot hope to digest and rebut effectively the
24 amount of data made available through environmental
25 assessment without an adequate research staff and effec-
26 tive legal counsel at the hearing itself. A corporate
27 or government entity which can spend several million
28 dollars for environmental research has an overwhelming
29 advantage in expertise available when defending their
30 environmental assessment before a hearing Tribunal, for

1 instance.

2 While access to all the in-
3 formation may be assured to intervening environmental-
4 ists, financial resources severely limit the expertise
5 available to assess the adequacy of the document from
6 an independent standpoint. The need for funds to help
7 defray the costs of obtaining this adequate scientific
8 and legal expertise in preparation for a hearing should
9 be provided for by a government fund.

10 This step would enable
11 citizen interest groups appearing at Environmental
12 Impact Assessment hearings to place themselves on a
13 footing much more equal with project proponents.

14 FUNDING FOR ENVIRONMENTAL
15 GROUPS, A FORMULA.

16 There are a number of formu-
17 lae for funding which might be employed of which we
18 would suggest four.

19 A percentage of the total
20 cost of the assessment would be made available to interven-
21 ing environmental groups and divided at the Commission-
22 er's discretion according to manpower employed, expected
23 expenses for expert testimony, for research and the
24 hearing itself.

25 This could be done in such a
26 way as to promote as much co-ordination as possible be-
27 tween the intervening groups.

28 The second method might be
29 to make available a percentage of the proponent's
30 assessment cost and estimated hearing cost and divide it

1 among the intervening groups.

2 Another method might be to
3 take a percentage of the total projects capital costs,
4 for example, say 2% -- it is 2% in this instance, and
5 again divide it as in system one or two.

6 Another method may be --

7 THE COMMISSIONER: Excuse me,
8 I didn't follow that last. I thought I had followed you
9 up to that point. What was that last --

10 MR. LOWE: The third one was
11 a percentage of the total capital cost of the project
12 which may be 1% or 2%, or whichever might be deemed
13 appropriate for an adequate assessment, for an adequate
14 independent assessment and hearing cost for interested
15 parties which may appear.

16 A fourth method might be
17 the appointment of a co-ordinating environmental group
18 to co-ordinate the total environmental assessment.

19 Funds for intervening en-
20 vironmental groups should be made available through the
21 project proponent or the Federal department primarily
22 responsible for overseeing the project, i.e., in this
23 case the Department of Indian and Northern Affairs.

24 Funds supplied through the
25 Federal department should be recoverable from the pro-
26 ject proponent. Intervening groups should have at
27 least 90-days prior to the commencement -- 90 days --
28 should have the funds at least 90 days prior to the
29 commencement of the hearings.

30 Consideration should be

1 given to the establishment of a permanent office for
2 funding intervenors before Federal commissions of
3 inquiry and hearing tribunals.

4 TERMS OF REFERENCE AND
5 PROCEDURE.

6 Besides funding, there are
7 several principles with respect to the conduct of the
8 hearings which CEL feels are fundamental to an adequate
9 hearing process. Acceptance of some of the principles
10 may, in some instances, preclude or mitigate the need
11 for extensive funding.

12 No. 1: Federal Northern
13 Development Planning assumption should be open for dis-
14 cussion and comment at the Inquiry.

15 Since no other forum is
16 available for a public examination of development plan-
17 ning assumptions, the Inquiry should be prepared and
18 allow Federal Government planning experts to appear at
19 the hearings.

20 It is generally recognized
21 by environmentalists that an effective planning policy
22 must permit infusion of environmental values at the
23 formative policy stages before project planning can
24 begin. To ensure that this has been accomplished in
25 this instance, it is necessary to scrutinize planning
26 assumptions to ascertain that errors of assessment have
27 not been made which may have precluded options in a
28 project sense from ever having been considered.

29 At the Provincial level we
30 have seen at the Ontario Energy Board environmental

1 considerations left to a later approval stage in an
2 application by Ontario Hydro for approval of a 5-year
3 plan for expansion of facilities to meet projected de-
4 mand forecasts.

5 An approval by this Board
6 cannot help but have consequences for the environ-
7 ment, yet why should these issues be left to a later
8 hearing stage to be examined. Such an approach allows
9 only a choice in determining what areas of the environ-
10 ment will be sacrificed, and not whether that sacrifice
11 is necessary at all.

12 Environmental and social
13 values must be given the same front end policy treatment
14 as economic considerations. A process that leaves
15 environmental and social costs to a later stage cannot
16 be said to have given these costs serious consideration
17 in the first place.

18 On page 13 of the applicant's
19 -- in the application, we see, and I quote:

20 "Through the creation of greater opportunities for
21 employment, resultant increases in personal in-
22 comes and the development or improvement of such
23 infra-structure as community recreation, communi-
24 cations, transportation, medical and service facil-
25 ities, the applicant's project will enhance the
26 continuous development of the socio-economic
27 framework of the relevant communities for the
28 peoples of the North."

29 Again, this kind of state-
30 ment should be available for scrutiny and examination

1 at the hearing.

2 2. In general the terms of
3 reference to the Inquiry must be as broad as possible
4 and include for consideration the possibility of not
5 granting a right-of-way. There should be an examination
6 of the economic consequences of proceeding or not pro-
7 ceeding with the pipeline.

8 Terms of reference which do
9 not allow consideration of whether the right-of-way
10 should be granted at all cannot be said to be adequate.
11 CEL feels that the mandate to determine whether the
12 right-of-way should be granted is within the Inquiry's
13 terms of reference and that to do less would again indi-
14 cate that environmental and social values are not being
15 given the same pre-eminent importance that economic
16 factors enjoy.

17 Included within the scope of
18 the inquiry should be an examination of the economic
19 factors which impel the need for the pipeline and a
20 determination of the economic consequences of not
21 proceeding.

22 Again, I draw your attention
23 to page 13 of the application.

24 Assessing the importance of
25 environmental values can be accomplished only when
26 balanced against the assumed economic merits of a pro-
27 posed undertaking.

28 3. An examination of the
29 adequacy of the 1972 Pipeline Guidelines should be
30 undertaken if intervening environmental groups should so

1 request.

2 The June 1972 Pipeline
3 Guidelines have never been scrutinized in any public
4 forum. Some groups may take serious issue with the ade-
5 quacy of the Guidelines in determining whether environ-
6 mental values are being protected within their scope.
7 Since environmental impact statements were prepared in
8 accordance with the terms of the Guidelines, deficien-
9 cies in the format will often be reflecting errors in
10 the Guidelines themselves. Weaknesses in emphasis in
11 the Guidelines will again be so reflected in the impact
12 statements.

13 A standard -- four, number
14 4.

15 A standard must be estab-
16 lished to determine what weight of evidence is necessary
17 in judging whether the right-of-way should or should not
18 be granted.

19 A standard delimiting the
20 amount of environmental deterioration allowed must be
21 articulated to determine whether a projected pipeline
22 may or may not be built. It must be assumed that there
23 is a limit to environmental degradation which cannot be
24 exceeded, that there is a point beyond which environmen-
25 tal deterioration should not be countenanced.

26 In a case before the
27 National Energy Board recently, the Board, ruling on an
28 application by Ontario Hydro for approval of a licence
29 to export power, stated, in reply to evidence that un-
30 quantified social and environmental costs would outweigh

1 the benefits of the sale, quote:

2 "It is one thing to use an approximate estimate to
3 verify that social costs would not affect the
4 economy of a project" --
5 as was done in the ^{Board's} New Brunswick Lorinville decision,

6 It would be quite another
7 matter, and in my view, entirely improper to rely on
8 such an approximate estimate as the sole grounds for
9 denying a major application. Such a statement asserts
10 that social and environmental costs, which will always
11 necessarily be approximate, are not acceptable as
12 criteria for denying an application.

13 This Inquiry will hopefully
14 not take this kind of decision as precedent in determin-
15 ing the necessity for a pipeline right-of-way. There
16 must be an assurance that a certain weight to evidence
17 of projected environmental damage will be sufficient to
18 halt the project.

19 No. 5. It should be deter-
20 mined that the Inquiry will be considering other modes
21 of transport and not confine itself to investigating
22 only alternate routes for the pipeline.

23 Again, I would draw your
24 attention to page 14 of the application, in which the
25 applicant states:

26 "The applicant submits that its project is in the
27 Canadian public interest as it will enable Canad-
28 ian Arctic Gas to be brought to market more econo-
29 mically and at an earlier date than would other-
30 wise be possible."

1 I again would submit that
2 this kind of statement should be -- that the intervening
3 groups should be allowed to question these assumptions
4 made in that application.

5 An Inquiry that precludes
6 consideration of transportation methods other than the
7 pipeline can be said to have closed off options which
8 have never been given the public scrutiny deserved.
9 Other modes of transport have been projected for the
10 MacKenzie Valley area, and it is reasonable to expect
11 that these modes of transport should be examined in
12 relation to the pipeline proposal.

13 Again, consideration of
14 these alternate methods of transportation could have an
15 important effect in determining the necessity of a pipe-
16 line right-of-way.

17 6. Besides the primary
18 environmental impact caused by the pipeline construction,
19 the secondary impacts engendered by the pipeline's pre-
20 sence must be investigated. These include the growth
21 inducing or accumulative impacts initiated by a major
22 project.

23 The growth inducing impact
24 for a project may best be exemplified by the construc-
25 tion of a highway which, in later years, becomes a
26 focus for strip development along its length.

27 In the MacKenzie Valley in-
28 stance, we have already seen the proposal for a hydro-
29 electric development on the Great Bear River to supply
30 pipeline pumping stations, a direct secondary impact to

1 the pipeline proposal.

2 The need for assessing
3 secondary impacts under the U.S. National and Environ-
4 mental Policy Act was recognized by U.S. Federal Court
5 which ruled in 1972 in the case of a railroad which
6 wished to abandon a right-of-way, that an environmental
7 assessment would be necessary since the railway's
8 abandonment would cause increased traffic, truck traffic
9 on local roads.

10 The growth inducing aspect
11 of the pipeline's construction could have significantly
12 greater consequences for the environment of the North-
13 west Territories than the building of the pipeline it-
14 self. The determination of this impact should be one of
15 the major areas of inquiry in assessing the need for the
16 pipeline right-of-way.

17 7. Access to all information
18 gathered in the course of the environmental assessment
19 by the proponent and government agencies must be avail-
20 able to all interested parties at the Inquiry.

21 The assurance of access to
22 information is a pre-requisite if intervenors are to
23 present a competent case at the Inquiry. Environmental
24 groups, who do not have the funds for conducting their
25 own environmental assessments, could not be certain that
26 project proponents, who naturally wish to present their
27 best case, have not edited their environmental impact
28 statements to leave out evidence detracting from their
29 position. Thus, data collected in the course of an
30 enviromental assessment should be available to all par-

1 ties involved in determining the acceptability of the
2 environmental impact statement.

3 Similarly, the contentions
4 of all responsible persons involved in the environmental
5 assessment should appear in the environmental impact
6 statement and should be heard during the course of the
7 Inquiry.

8 No. 8. The mandate given
9 the Inquiry's own assessment group must be examined to
10 determine whether they will be investigating all ele-
11 ments of the environmental assessment which interested
12 parties deem necessary.

13 Since environmental groups
14 have little scope for conducting their own assessments,
15 the Inquiry Assessment Group should allow for as much
16 intervenor access as possible. This would include, not
17 only permitting the ~~se~~lection of members ~~for~~ the assess-
18 ment group, as has already been offered, but allowing
19 intervenors an opportunity to determine in what direc-
20 tion the assessment group should be investigating.
21 Members of the assessment group could also be made
22 available as expert witnesses for project opponents or
23 an assurance could be given that a quota of experts
24 chosen by intervening environmental groups could be in-
25 cluded in the assessment group.

26 9. Initiation of the
27 hearings should be delayed until intervenors have ade-
28 quate opportunity to consult expert opinion and deter-
29 mine the acceptability of the environmental impact state-
30 ment and other material.

1 The commencement of the
2 hearings in the early fall will not allow adequate time
3 for investigation of such aspects of the environmental
4 assessment as secondary growth inducing elements
5 caused by pipeline construction.

6 For example, in the United
7 States regulatory agencies commenting on environmental
8 impact statements under the provisions of the National
9 Environmental Policy Act have often found the three
10 month period for review inadequate for major projects.

11 Considering the amount of
12 assessment material to be reviewed in this instance, an
13 extension of time would not be unreasonable.

14 Thank you.

15 THE COMMISSIONER: Thank you
16 very much.

17 Are you in a position to
18 leave anything in writing with us. I noticed you were
19 reading from something.

20 MR. LOWE: It won't be a
21 complete submission but I think probably it should be
22 typed out in proper form and sent in to you.

23 MR. COMMISSIONER: Yes, well,
24 would you do that when you get it typed up.

25 I will now ask Mr. Selbie
26 of the Federation of Ontario Naturalists to make the
27 submission on behalf of his organization.

28 MR. SELBIE: Thank you,
29 your honour. My name is Selbie and I am here represent-
30 ing The Federation of Ontario Naturalists, as you stated.

1 The Federation of Ontario
2 Naturalists, the largest environmental organization in
3 Canada with approximately 14,000 members, is grateful
4 for the opportunity to make suggestions about the scope
5 and conduct of your inquiry.

6 The proposal before you is
7 concerned with the immediate extraction of Delta gas,
8 with the export of that gas, and most especially with
9 the construction of a transportation system in the
10 MacKenzie Valley which is designed exclusively for that
11 particular commodity.

12 It is the first major appli-
13 cation of this kind for Arctic Canada, but we may reason-
14 ably expect that it will not be the last. We still live
15 in a world of rapidly diminishing resources, and rapidly
16 rising population and per capita consumption. Even if
17 the Government of Canada, and the Governments of other
18 nations, are sufficiently wise to bring about a stable
19 and sustainable society, several decades will be required
20 to do so. In the transition, critical shortages of many
21 resources will occur. There is already ample evidence
22 that deposits of some of those resources occur in
23 northern Canada, and that the mining and petroleum indus-
24 tries will wish to extract them.

25 Our first recommendation,
26 therefore, is that this proposal be at all times consi-
27 dered in the context of other proposals that may appear;
28 oil from the Delta, gas from the islands, minerals from
29 the Yukon or elsewhere. However difficult it may be to
30 predict the nature and scope of such future development,

1 it is quite unrealistic to suppose that this is the only
2 major northern transportation proposal that Canada will
3 ever entertain. The question that must be answered, how-
4 ever long it may take, is what combination and timing of
5 developments and what transportation system brings the
6 greatest and most lasting benefit to the quality of
7 Canadian life. Transportation systems should also be
8 judged by their residual value to Canadians once the
9 resources are exhausted.

10 It is obvious, but often
11 forgotten, that the only reason for extracting any
12 Canadian resource, or for developing any Canadian indus-
13 try, is to improve the quality of Canadian life.
14 Developments are worthwhile only if they contribute to
15 the unity, strength and independence of our country; to
16 the creation of communities that are healthy, varied,
17 secure and stimulating; to the creation of challenging,
18 long-lasting and, in every sense, rewarding jobs and
19 investment opportunities for Canadians; and to safeguard
20 ing our environment, including the vast natural areas so
21 important in our culture and heritage.

22 Our second recommendation,
23 then, is that you weight the present proposal in these
24 terms, examining carefully its effect on the quality of
25 life of all Canadians, and particularly of those living
26 in the region. From what the Federation knows of your
27 record, this is an unnecessary recommendation, for you
28 are unlikely to lose sight of the end purpose that any
29 such proposal must serve, but there will be pressures on
30 you for reasons of expediency to limit your view and the

1 Federation wishes to oppose any suggestion that a narrow
2 view is right or proper or likely to serve the public
3 interest.

4 Such broad consideration re-
5 quires laying before you facts and opinions well outside
6 the interests and expertise of the applicant. Adequate
7 presentation of these points can come only from indivi-
8 duals and groups having no commercial interest and no
9 access to any funds comparable to those available to the
10 applicant for the preparation and presentation of its
11 submission.

12 The success of the hearings
13 depends on adequate funds being provided to such groups.
14 Although the Federation of Ontario Naturalists is in
15 many ways well equipped to play this role in relation to
16 the environmental aspects, we do not seek to do so.
17 Rather we ask that such funding be given by the Govern-
18 ment of Canada to the two national bodies with which we
19 are associated, the Canadian Nature Federation and the
20 Canadian Arctic Resources Committee.

21 We also urge that the hearings
22 be timed so as to permit full preparation of all aspects
23 of these issues, and full examination of matters raised
24 by all parties.

25 The Federation looks forward
26 to following your important and precedent-setting hear-
27 ings.

28 Thank you.

29 THE COMMISSIONER: The sub-
30 mission that has just been handed to me will me marked

1 as an exhibit.

2 (SUBMISSION BY MR. SELSIE FOR THE FEDERATION OF ONTARIO
3 NATURALISTS, MARKED EXHIBIT NO. 29.)

4 THE COMMISSIONER: Before we
5 turn to the further submissions that Arctic Gas or
6 Canadian Arctic Resources Committee may wish to make, I
7 want to give anyone here today, who hasn't had an oppor-
8 tunity to be heard, a chance to speak up now if there is
9 anything you wish to say that it would be appropriate for
10 you to say now.

11 Well, we will adjourn in a
12 minute, -- we will adjourn for coffee in a minute, but
13 before we do, I just want to ask those of you who are
14 going to make further submissions about the scope of
15 this order-in-council to consider one or two things I
16 have to say now, because my mandate depends on the
17 order-in-council, and I am not asking you to say any-
18 thing about this when we return from coffee, but you
19 might think about it perhaps overnight.

20 There have been a number of
21 suggestions here that this Inquiry should review the
22 adequacy of the Pipeline Guidelines. If you look at the
23 order-in-council, you will see that I am to inquire into
24 and report upon the terms and conditions that should be
25 imposed in respect of any right-of-way that might be
26 granted for the purposes of the pipeline, and that in
27 making that inquiry, and in considering what recommenda-
28 tions I ought to make in my report to the Minister, I am
29 to take into account the two matters that appear in para-
30 graphs (a) and (b) at the top of page 2, and the first

1 of those is described in these words:

2 "The social, environmental and economic
3 impact regionally of the construction operation and
4 subsequent abandonment of the proposed pipeline in
5 the Yukon and the Northwest Territories."

6 Now, then, the second para-
7 graph (b) deals with the Pipeline Guidelines.

8 Now, it is something that I
9 draw to your attention because it may well be that para-
10 graph (a), which appears to have been drafted in a way
11 that is obviously very wide in its scope, allows this
12 Inquiry to go beyond the Pipeline Guidelines and to con-
13 sider any social, environmental and economic -- and to
14 consider the social, environmental and economic impact
15 in the North of the pipeline proposal, and I -- you may
16 well want to consider, and any further submissions you
17 have to make, whether (b), which relates to the Pipeline
18 Guidelines is simply designed to provide a focus for
19 that Inquiry.

20 You see, if you look at the
21 Pipeline Guidelines, they set out a number of environmen-
22 tal and social concerns, but you may want to consider
23 whether taking this order-in-council as a whole
24 there may be other social and environmental considera-
25 tions not set out in the Pipeline Guidelines which it
26 was intended this Inquiry should look into and report
27 upon.

28 I only draw that to your
29 attention because I have heard a great deal today and I
30 am grateful to have had the opportunity to hear it about the

1 Pipeline Guidelines, but I ask you to come back to the
2 order-in-council in making any further submissions and to
3 give me your views as to that matter.

4 The other matter I wish to
5 raise, and I will ask you to deal with it in your fur-
6 ther submissions, relates to the procedure that I am con-
7 sidering with respect to the assessment group, that is
8 Dr. Fyles' Assessment Group.

9 I have said from the beginn-
10 ing that I am anxious that this should be an open in-
11 quiry, and a thorough inquiry. I am considering a pro-
12 cedure whereby any statements by the Assessment Group
13 calling for supplementary information and material from
14 Arctic Gas would be sent to the Inquiry and then sent to
15 Arctic Gas and other interested parties, and then made
16 available to the Public.

17 And, in connection with that
18 procedure, I am considering arranging for the Assessment
19 Group to provide such statements on an interim footing
20 as the Assessment Group is in a position to put together
21 such statements without waiting for the September report
22 in its entirety from the Assessment Group. I want to
23 hear what you have to say about that later on, not per-
24 haps today but tomorrow.

25 So, we will have an adjourn-
26 ment for a few minutes for coffee.

27 (PROCEEDINGS ADJOURNED.)

28 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

29 THE COMMISSIONER: There is a
30 submission that has been received from Mr. Butters, Tom

1 Butters, Member for the Western Arctic for the Council
2 of the Northwest Territories, and I am going to ask Mr.
3 Waddell to read that into the record now.

4 MR. WADDELL: I will read
5 the letter from Mr. Butters dated May 3rd and then I
6 will read his submission.

7 "Dear Commissioner Berger:

8 I have for acknowledgment
9 and reply your form letter of April 1st, advising of
10 your appointment and commission to conduct the
11 MacKenzie Valley Pipeline Inquiry. By Telex dated
12 April 24th directed to you c/o The Eskimo Inn in
13 Inuvik, I informed you that unexpected commitments
14 had required me to be out of Inuvik during the Pre-
15 liminary Hearing held by your Inquiry in this commun-
16 ity. I advised at that time I would be grateful
17 for the opportunity to submit a short statement in
18 writing to you when you sit in Ottawa on May 6 and
19 7, 1974.

20 Initially, I commend you for
21 the despatch and the manner in which you have taken
22 up your responsibilities. Unfortunately, although
23 your letter requesting information and comment was
24 dated in Vancouver April 1st, it was not posted
25 until April 17th, and, understandably, with the
26 recent difficulties with the Federal mail service,
27 arrived in Inuvik only hours before yourself and
28 your support staff.

29 Although I am attaching com-
30 ments which I wish to form part of your Committee's

" Preliminary Hearing record, I also in this letter wish to comment on some suggestions raised in your initial letter of April 1st.

I think the idea of naming Inquiry Officers is an excellent one. In fact, depending on the selection of such people, I believe such individuals could be the most helpful and informative members of your commission staff.

I suggest such Inquiry Officers not only should be commissioned with the responsibility of taking evidence, but should travel and live in each of the communities for an extended period of time, one week to two weeks, to get an understanding of each community's socio-economic and political motivations to assist your Committee in its examination of briefs received. I do not feel such officers, men or women (and I tend to think that women would probably make the most effective inquirers and reporters) should be required to 'take evidence'. I believe, with respect, that this role should remain the prerogative of your Committee, in formal or informal session.

One further comment on the points raised in your letter and that is that I would prefer that the headquarters of the Inquiry, when it is established in the North, not be set up at Yellowknife or Whitehorse. I suggest that either Inuvik or Hay River, preferably Inuvik, be the centre of your Inquiry in the North.

1 "
2 Please find attached the
3 brief submission I would have presented to your
4 Committee had I been present in the community on
5 Wednesday, April 24th, 1974.

6 Yours respectfully,

7 'Tom Butters' "

8 B-U-T-T-E-R-S --

9 "Member - Western Arctic."

10 Now, here is his Brief,
11 dated "Inuvik, Northwest Territories, 3rd of May, 1974."
12 He sets out the terms of reference of the Inquiry.
13 He then deals with the hearing procedure, one location
14 of the Hearings.

15 "While PC.1974-641 author-
16 izes hearings not only in 'territorial centres' but
17 also 'in such other places' as deemed necessary by
18 the Commissioner, it is of prime importance that
19 the Inquiry Committee visit all of the communities
20 along the proposed pipeline route that will be
21 directly affected by the development. Such commun-
22 ities are those lying along the MacKenzie River
23 beginning at Hay River and including Enterprise,
24 Fort Providence, Trout Lake, Jean Marie River, Fort
25 Simpson, Nahanni Butte, Wrigley, Fort Norman, Fort
26 Franklin, Norman Wells, Fort Good Hope, Arctic Red
27 River, Fort McPherson, Aklavik, Inuvik, Tuktoyaktuk
28 and Coppermine.

29 Although Fort Franklin lies
30 60 miles east of the proposed line, that community
 could be more affected by the proposed development

1 " than MacKenzie River communities owing to the plans
2 for massive hydro power development on the Bear
3 River and attendant proposed changes in the level
4 of Great Bear Lake. Coppermine is included in the
5 foregoing list because if the Bear River power
6 development goes ahead, I believe the plans call
7 for a portion of the Coppermine River to be diver-
8 ted into the Great Bear Lake.

9 Communities around Great
10 Slave Lake and the Central Arctic (excluding
11 Coppermine) should only receive indirect effects
12 of the line and therefore it is not so important
13 that the Inquiry Commission sit or hold hearings
14 in these communities. Hearings as required and
15 thought necessary in these communities might be
16 satisfactorily carried out in the person of an
17 Inquiry Officer serving the Commission.

18 Communities falling into
19 this category would be Fort Resolution, Pine Point,
20 Fort Smith, Snowdrift, Rae-Edzo, Detah, Lacla
21 Martre, Sachs Harbour, Paulatuk, Cambridge Bay,
22 Holman Island, Gjoa Haven, Pelly Bay, Spence Bay
23 and Resolute Bay.

24 Yellowknife, being the
25 Capitol of the Territories, naturally would require
26 special consideration and a much different type of
27 hearing arrangement and procedure than that carried
28 out in the smaller N.W.T. municipalities, settle-
29 ments and outposts.

30 Duration of Hearings:

1 "

2 The most critical question
3 to be answered by the Inquiry Commission must be
4 'How much time is required to fulfil the terms of
5 the Commission and not jeopardize unnecessarily the
6 MacKenzie Valley natural gas line project?'

7 I believe the Commission
8 would have sufficient time to achieve both objec-
9 tives if the final date for hearings, inquiries and
10 dispositions were set as March 31, 1975. Summer
11 and Fall in the North, especially along the
12 MacKenzie River, is a hectic and active season with
13 people moving, camping, working and busy preparing
14 for the coming Winter season. With the hearings
15 extended over both the summer and winter seasons,
16 the greatest number of residents should have an
17 opportunity to either make formal presentations to
18 the Commission or provide comment for the Inquiry
19 Officers of the Commission in less formal situa-
20 tions.

21 3. Preparation for Public
22 Hearings or Personal Inquiries:

23 (a) Communication:

24 The Canadian Broadcasting
25 Corporation has failed lamentably to inform the
26 northern resident regarding the socio-cultural,
27 political and economic changes occurring in the
28 Territories, and especially in high development
29 flux areas such as the MacKenzie District of the
30 N.W.T. Although everyone is aware the quality of
 life in the Territories is undergoing continuing

1 " and rapid change, minimal, objective and informa-
2 tional material has been communicated by the CBC
3 relating to the cause and effect relationships
4 underlying such changes, providing for residents a
5 number of options through which they can best adapt
6 and be ready to take advantage of opportunities
7 resulting from the heightened development climate.

8 One cannot blame the CBC
9 management wholly or solely for this omission for
10 they must compete with other senior officials of
11 Federal Government Departments and agencies and
12 justify their specific requirements and priorities
13 for their share of the public dollar.

14 CBC planners have been ex-
15 tremely successful in the last ten years in acquir-
16 ing funds to improve communications systems in the
17 North. Radio and television systems have been de-
18 veloped far beyond the most optimistic expectations
19 of persons residing in the Territories in 1964.
20 While still much improvement remains, the CBC has
21 given us the ways to communicate instantaneously
22 and meaningfully to the vast majority of the people
23 of this hollow land.

24 What we have not been given
25 is the means to carry out that communication. The
26 Council of the Northwest Territories has repeatedly,
27 Session after Session, asked the CBC to develop a
28 programme initiation capacity and production capa-
29 bility in the Territories. This has not been done.
30 CBC management has protested that high costs and

1 " lack of trained staff militate against such a
2 communication development programme at this time.
3 Meanwhile, the 'winds of change' blow unabated
4 through northern communities and the people of the
5 North remain ignorant of the implications of such
6 change and opportunities that it brings.

7 CBC management's protesta-
8 tions regarding the setting up of programme develop-
9 ment and transmission facilities in the Territories
10 ring even more false in view of the recent two and
11 one-half hour long colour television programme on
12 the Northwest Territories 'Inukshuk' which included
13 two 'live' television broadcasts originating in the
14 North with signals transmitted via the Anik satell-
15 ite. The two live, colour television broadcasts
16 originated from two widely separated points; one,
17 being the Anglican church at Frobisher Bay and
18 another, being the 'Sub-Igloo' structure anchored
19 beneath the sea ice near Resolute Bay. Obviously,
20 live television broadcasting from the North to the
21 North is technically possible.

22 It is ironic that the Canad-
23 ian Arctic Gas Study Limited group has been required
24 to spend \$50 million mainly in the area of environ-
25 mental concerns to ensure that the physical environ-
26 ment and northern plant and animal species will not
27 be detrimentally altered by the proposed construc-
28 tion programme, yet little or no money has been ex-
29 pended over the same period of time to prepare the
30 human element in that environment for the changes

1 " that could occur, thus enabling northern residents
2 to plan for change.

3 My recommendation is there-
4 fore that the Inquiry Commission be given every
5 co-operation and offered every facility of the
6 Canadian Broadcasting Corporation to ensure that
7 the fullest communication can occur in the Terri-
8 tories regarding the proposed CAGSL project, pro
9 and con, and that every viewpoint, opinion and
10 position be given an equal opportunity to present
11 that position, in English, French, Cree, Dogrib,
12 Slavey, Kutchin and the Western Eskimo dialect,
13 with translations. Preferably this communication
14 should be carried out on both radio and television
15 systems developed by the CBC in the North.

16 CBC is currently advertising
17 a new programme series entitled 'Access'. It is
18 also important that the material presented to the
19 Commission have 'access' to the public media serv-
20 ing the North.

21 (b) Research Support:

22 Individuals or organizations
23 making either oral or written submissions to the
24 MacKenzie Valley Pipeline Inquiry Commission will
25 undoubtedly have considered at some length the
26 question 'Do I (we) support or oppose the natural
27 gas pipeline construction project?'

28 I suggest that the answer to
29 this question by the majority of N.W.T. residents
30 or resident organizations will be 'Yes, condition-

1 " ally".

2 I believe that all residents
3 of the N.W.T. and particularly of the MacKenzie
4 District recognize that a MacKenzie Valley gas
5 pipeline will increase the rate of change presently
6 being experienced in northern communities. There-
7 fore, understandably, residents of the Territories
8 will seek to have regulations imposed upon the
9 project both during construction and throughout the
10 operation phase which will not only seek to provide
11 for immediate and future benefit of residents of
12 the Territories but also to ensure that any change
13 that takes place will be at a rate compatible with
14 the life styles and aspirations of nearby communi-
15 ties.

16 With that determination upper-
17 most, it is necessary that residents of the North
18 have available to them research and advisory
19 agencies services which would assist them to rea-
20 lize the greatest possible return, individually
21 and collectively, from the pipeline development
22 programme. If such advice, information and regula-
23 tory authority is not made available to the people
24 of the Territories through their democratically-
25 elected institutions, municipal and territorial,
26 prior to the time the agreement is concluded be-
27 tween the Federal Government and the Canadian Arctic
28 Gas Pipeline Company, the people of the North will
29 have been sold short. Required are funds and
30 professional advice to ^{assist} northern peoples so that they

1 " may participate in, relate to, and assist in arriv-
2 ing at decisions regarding their present and future
3 condition.

4 I suggest the answer of the
5 people of the North to the CAGSL application is
6 'Yes, we support the concept conditionally and
7 those conditions when implemented must enhance and
8 improve the quality of life enjoyed by the people
9 of the Northwest Territories'.

10 (c) Role of the Inquiry
11 Officer:

12 I support the concept of an
13 Inquiry Officer attached to the Commission as
14 tentatively outlined in the form letter over the
15 Honourable Mr. Justice T. R. Berger's signature
16 dated April 1st, Vancouver, B.C. I believe such
17 individuals could be among the most helpful and
18 productive members of the Inquiry Commission staff.

19 I suggest such Inquiry
20 Officers should not only be commissioned with the
21 responsibility of taking evidence but should travel
22 and live in each of the communities for an extended
23 period of time, one week to two weeks, to gain an
24 understanding of each community's socio-economic
25 and political motivations so as to assist the In-
26 quiry in an objective examination of the briefs
27 received. I do not feel such officers, men or
28 women, should be required to take evidence in the
29 smaller communities to be directly affected by the
30 project since this role I suggest, with respect,

1 " should remain the prerogative of the Commissioner
2 in formal or informal session.

3 I suggest, also, the Inquiry
4 give consideration to naming three such officers,
5 one to serve in the Upper MacKenzie region, Hay
6 River to Fort Simpson; another in the Central
7 MacKenzie River region including the settlements of
8 Wrigley, Fort Norman, Fort Franklin, Norman Wells
9 and Fort Good Hope; and in the Lower MacKenzie
10 including the settlements of Arctic Red River, Fort
11 McPherson, Aklavik, Tuktoyaktuk and Inuvik.

12 (d) Field Headquarters of
13 the Inquiry:

14 I suggest that the field
15 headquarters of the Inquiry when it is established
16 in the North not be set up in either Yellowknife or
17 Whitehorse. I suggest that consideration be given
18 for establishing the Inquiry's territorial head-
19 quarters at either Hay River or Inuvik. "

20 And that is the Brief, Mr.
21 Commissioner.

22 THE COMMISSIONER: Yes, Mr.
23 Butters letter and his Brief will both be marked as
24 exhibits.

25 (LETTER DATED MAY 3, 1974, TOM BUTTERS, MEMBER, WESTERN
26 ARCTIC, COUNCIL OF THE NORTHWEST TERRITORIES, MARKED
27 EXHIBIT 30(a).)

28 (BRIEF, DATED MAY 3, 1974, TOM BUTTERS, MEMBER, WESTERN
29 ARCTIC, COUNCIL OF THE NORTHWEST TERRITORIES, MARKED
30 EXHIBIT 30(b).)

1 THE COMMISSIONER: Well,
2 there are two more submissions that are to
3 be heard but unfortunately they can't -- these submis-
4 sions can't be presented until tomorrow morning. Those
5 are submissions to be made by the Native Council of
6 Canada and by Mr. Mercredi of Fort Simpson on behalf of
7 the Organization of Small Businessmen.

8 I still want to hear from
9 Arctic Gas, Canadian Arctic Resources Committee and any
10 others who have further submissions to make on various
11 points that have arisen throughout the hearings. It is
12 getting a little late. I would be prepared to hear your
13 submission in full now, Mr. Goldie, but if -- I only say
14 it is getting late in the sense that I have to listen
15 to all of this and I do so happily but there is --

16 MR. GOLDIE: I think there
17 is a message there.

18 THE COMMISSIONER: I was
19 going to say that to facilitate the course of the hear-
20 ing tomorrow, Mr. Goldie, it might be helpful, and I --
21 don't do this if you don't wish to -- but it might be
22 helpful if you were to give in point form the issues
23 that you intend to raise, then Mr. Lucas on behalf of
24 CARC might indicate any issues he intends to raise, and
25 then you would each at least be in a position to consi-
26 der what you might have to say to meet the other to-
27 morrow.

28 MR. GOLDIE: I think that
29 would be helpful, Mr. Commissioner. I understood from
30 Mr. Lucas that there might be others who wished to

1 speak on these matters, and if we could determine today
2 the points that I was going to deal with, the points
3 that he was going to deal with, and the points that
4 others on these aspects wish to deal with, then perhaps
5 we could get off to a good start tomorrow.

6 THE COMMISSIONER: Yes, well,
7 let's do that then, and if you don't mind leading off
8 and outlining your points, then I will ask Mr. Lucas,
9 and then any others who have points to raise.

10 MR. GOLDIE: I am going to --
11 or I have organized my submission along these lines.

12 First, the scope of the
13 terms of reference, and in dealing with that, I intend
14 to touch on these factors, or these matters: The
15 national impact of the applicant's proposal; the land
16 claims of Native peoples; the environmental and socio-
17 economic impact of producer activities; alternate means
18 of transporting gas; a hydro-electric scheme on Great
19 Bear Lake; --

20 THE COMMISSIONER: Yes, just
21 slow down a bit, if you don't mind --

22 MR. GOLDIE: I am sorry.

23 THE COMMISSIONER: Because
24 we won't have a transcript by tomorrow. I got three.
25 What was four?

26 MR. GOLDIE: Alternate means
27 of transporting natural gas.

28 THE COMMISSIONER: Yes.

29 MR. GOLDIE: The next was a
30 hydro-electric scheme on Great Bear Lake. And finally,

1 whether the applicant should be given permission to con-
2 struct the pipeline.

3 Now, **these** will all be dis-
4 cussed in relation to the terms of the order-in-council,
5 and I propose, Mr. Commissioner, to deal in the course
6 of those with the two propositions that you raised, that
7 is to say, whether the **Expanded Guidelines** are to be
8 taken as a part of Clause (a) of the order-in-council,
9 and secondly, to comment on the procedure that you out-
10 lined with respect to the **Assessment Group's** requirement
11 for additional information.

12 My next heading will deal
13 specifically with the **Expanded Guidelines**, and that will
14 be very short. It is a submission as to their -- what
15 their -- their legal effect, and also I had a note, Mr.
16 Commissioner, that you asked for some submission with
17 respect to one specific Guideline, and my note is that
18 that was No. 6 on page 29.

19 Finally, Mr. Commissioner, I
20 propose dealing with procedural matters and
21 I will deal under that with the submissions we have al-
22 ready made so that they may be re-stated, and also with
23 the question of delay.

24 Now, that, as at presently
25 advised, constitutes the scope of what I will
26 deal with tomorrow.

27 THE COMMISSIONER: Mr. Lucas,
28 if you have any points you wish to raise tomorrow, could
29 you outline them for us now, and if you wish to come to
30 one of the microphones, you may, and I hope tomorrow you

1 will perhaps be able to get hold of a seat at the front.

2 MR. LUCAS: It pays to come
3 early.

4 Mr. Commissioner, I would
5 like to outline the points that I will be dealing with
6 tomorrow, and in addition, with your permission, I would
7 like to today introduce Doctor Cecil Law, the Director
8 of the Canadian Institute of Guided Ground Transporta-
9 tion who has a few words to say, and unfortunately can-
10 not be here tomorrow.

11 THE COMMISSIONER: Well, you
12 go ahead if you wish and give us your points and then I
13 will hear Mr. Law. I am here to listen to anyone who
14 wants to say something to me.

15 MR. LUCAS: Thank you. I
16 will simply outline my points then in the way that Mr.
17 Goldie has done.

18 The submission tomorrow will
19 be under two main heads. First of all, additional
20 material that we are going to request be filed by the
21 applicant, and there are five headings here, and all of
22 this material is found in Schedule 1 to the applicant's
23 National Energy Board application. And it is numbered
24 by section and I will refer to those sections.

25 So the first item is Section
26 1, Gas Supply Under Contract. The second is Section 3,
27 Gas Sale Contracts. The third is Section 2, Market
28 Projections. The fourth is Section 4, Gas Supply Under
29 Contract. Fifth, --

30 THE COMMISSIONER: I thought

1 that was No. 1.

2 MR. LUCAS: Gas Supply
3 Areas, yes, I am sorry.

4 And fifth, Section 10, Cost
5 of Facilities. And there is a sixth, as well, namely,
6 Section 14 (b), Impact of Applicant's Proposal on Canad-
7 ian Economy.

8 So, we will be presenting
9 argument then to the effect that these materials are
10 necessary and relevant to this Inquiry and must be dis-
11 closed, and made available to the parties.

12 The second part of the sub-
13 mission will deal with scope of the Inquiry, and there
14 are a number of items in this section which I will list
15 briefly.

16 The first is alternative
17 systems of transportation for the natural gas. Second,
18 the application of the common Corridor principle, found
19 in Guideline No. 3, of the Expanded Guidelines. Third,
20 Guideline No. 4 which deals with geographic areas of
21 special environmental and social concern.

22 So, that is Guideline No. 4
23 of the Expanded Guidelines for Northern Pipelines.

24 The fourth point is the pro-
25 posed Great Bear Lake hydro-electric development. Fifth,
26 branch lines and gathering lines. Sixth, gas fields.
27 And seventh, the form of order or recommendations to be
28 made by the Commission.

29 And all of these points will
30 be dealt with in terms of the order-in-council as well as

1 the 1972 Expanded Guidelines and issues related to the
2 inter-relation of the Guidelines and the order-in-
3 council will be dealt with under those specific head-
4 ings.

5 THE COMMISSIONER: Fine,
6 thank you very much, Professor Lucas.

7 Tomorrow, when we have
8 heard the formal submissions of the Native Council of
9 Canada and of Mr. Mercredi's organization, after that I
10 will ask Mr. Goldie to develop his argument on these
11 points, and then I will ask Mr. Lucas to do the same,
12 but let me make it clear that if any of the other organ-
13 izations represented here today wish to discuss the
14 points that Mr. Goldie and Mr. Lucas have raised, you
15 will be perfectly free to do so tomorrow, but I think,
16 so that we can have an orderly discussion, I will let
17 them go first, Mr. Goldie and then Mr. Lucas, and then
18 anyone representing any of the Native organizations or
19 the other environmental organizations or anybody else,
20 for that matter, who wishes to contribute to that dis-
21 cussion.

22 I make it clear, I don't
23 want to hear again tomorrow what I have already heard
24 today, but I want you to understand that you are free to
25 contribute to that particular debate.

26 Well, I guess all that re-
27 mains is to hear Mr. Law.

28 MR. GOLDIE: Mr. Commis-
29 sioner, I am sorry --

30 THE COMMISSIONER: Yes.

1 MR. GOLDIE: -- before we
2 go on, I wonder whether there is anybody else who has a
3 formal argument to address to you that isn't covered by
4 one or more of the points that Mr. Lucas and I have dis-
5 cussed.

6 THE COMMISSIONER: Yes,
7 that -- is there anybody here -- I address myself, I
8 think, to Mr. Lueck and Mr. Sutton and to Miss Hunt, who
9 wants to raise any points relating to the order-in-
10 council or the guidelines tomorrow, I think it would be
11 helpful if you indicated now what your point or points
12 are going to be.

13 Miss Hunt?

14 MISS HUNT: Yes, I just
15 might say that I certainly anticipate that we will have
16 submissions to make on some of the points that have been
17 mentioned. I think probably they all have been covered
18 except possibly the point that was raised in the Federa-
19 tion about the suggestion that your terms of reference
20 give you authority to say that one condition would be no
21 pipeline until a settlement of land claims. I don't
22 think that has been mentioned.

23 I think that in general the
24 other points that have been mentioned by Mr. Goldie and
25 by Mr. Lucas, and we certainly anticipate responding to
26 Mr. Goldie's comments.

27 THE COMMISSIONER: Fine,
28 thank you.

29 Mr. Sutton?

30 MR. SUTTON: I have one com-

1 ment relating to the question of the scope of the Inquiry
2 and we certainly aren't prepared to assess whether or
3 not these examples that have been cited by both Mr.
4 Goldie and Mr. Lucas are exhaustive and possibly we
5 might think of other things that would be included in
6 that, and I would feel that we perhaps be given the
7 opportunity to mention any others that might
8 fall within the scope of the Inquiry if they
9 come to mind tonight.

10 There is one factor that
11 comes to mind offhand and that is the whole question of
12 the transportation of supplies, construction supplies,
13 to the pipeline -- proposed pipeline route, and indeed
14 those considerations might well fall within the scope of
15 the Inquiry.

16 THE COMMISSIONER: Yes, well
17 thank you for mentioning that. I think -- I hope you do
18 deal with that tomorrow. And you are free to deal with
19 anything that occurs to you overnight as well.

20 MR. SUTTON: Thank you.

21 THE COMMISSIONER: Mr. Lueck,
22 is there anything that you wish to add?

23 MR. LUECK: Mr. Commissioner,
24 I was rather hopeful that the Arctic Gas people would
25 have made their submission today and then we could con-
26 sider it over the evening, but I have nothing I can see
27 that will take very much time. There may be the odd
28 comment and that is about all.

29 THE COMMISSIONER: Fine,
30 thank you.

*see insert for rest of
testimony*



1 Well, Mr. Law, you are here.
2 You might tell me who you represent and then go ahead
3 and let us hear what you have to say.

4 MR. LAW: Mr. Berger, I
5 apologize for having to speak today. I am supposed to
6 be at a hearing in Kingston in about fifteen minutes
7 which is being delayed a little, so --

8 I am here at the invitation
9 of CARC and at the invitation of some other groups as
10 well. I belong to the Canadian Institute of Guided Ground
11 Transport at Queen's University. I am the Executive
12 Director. I am really presenting some points rela-
13 tive to one of the alternatives that have been raised.

14 Nominally we are here to con-
15 sider those factors which might have a bearing on an
16 application for a natural gas pipeline up the MacKenzie
17 Valley, but in fact I think that this is too narrow a
18 definition, as some other people have said, and what we
19 are considering, or what we should be considering, is
20 the long term social and economic impact on Canada,
21 particularly, but by no means exclusively, the impact
22 on northern Canada of a transportation system to move
23 petroleum products from the Arctic to southern markets,
24 because this is going to be a very very substantial
25 impact on the whole of Canada.

26 U.S. Environmental Impact
27 Regulations call for a thorough consideration of alter-
28 native means of achieving the proposed ends, in this
29 case, transporting oil and gas.

30 Canadian Guidelines for

*is supplement to:
Mackenzie Valley Pipeline Inquiry
Volume 14, 1981.*

Pipeline construction in the North are somewhat less demanding. They do confine routes to a narrow Corridor. They do insist that only one oil pipeline and one gas pipeline, et cetera, can be considered, and in passing they mention highways and railroads and tele-communications, but the magnitude of their impact is really only hinted at.

Now, Prudhoe Bay oil and gas are the only significant Arctic petroleum developments at the moment. MacKenzie Delta Gas and some oil will presumably augment this later, but not yet. Since part of the proposed pipeline passes through Alaska, the alternatives are mentioned in the CAGSL Report, but the most significant alternative, namely the railroad, is dismissed with just a few paragraphs, and from a Canadian point of view I think that just isn't good enough.

My organization became involved in a study of the transportation of Arctic oil in the Spring of 1971 and we added gas in 1972.

I should emphasize that any figures I might give today are related to these initial studies, and they don't relate to the much more detailed studies which have been conducted since that time by Canadian National and Canadian Pacific on behalf of the Canadian Government. I am not in a position at present to give any of these results, since my Institute was not responsible for the study, and since the results are not due to be presented to the Government until later this month. But I can say, as far as I am able to tell, the more detailed studies --

*INSERT: This p. 359 -
is part of a
supplement sheet
attached to Part II
of The Mackenzie Valley Review*

1 THE COMMISSIONER: Excuse me
2 to the Government of Canada?

3 MR. LAW: To the Government
4 of Canada, yes.

5 The more detailed study
6 doesn't appear to invalidate any of the general conclu-
7 sions we reached in our preliminary study.

8 Well, what did we conclude?
9 We concluded that any large scale petroleum development
10 in the North will have very profound consequences, not
11 only on the North, but on the whole of Canada, and for
12 very many years to come, if not forever.

13 The magnitude of the Prudhoe
14 Bay development alone is enormous. They talk about 10
15 to 30 billion barrels of oil. They talk about 25 to 125
16 trillion cubic feet or more of gas. They talk about 5
17 to 20 billions of dollars capital investment, depending
18 on who you are talking to, and that means something like
19 60 to 500 billion dollars of sales which are enormous
20 sums.

21 I had the opportunity to see
22 a million dollars in thousand dollar bills once. It is
23 a lousy little pile about that high. A billion dollars
24 is a pile of thousand dollar bills about four times as
25 high as the Peace Tower, and we are talking about tens
26 and even hundreds of billions of dollars, so we are
27 talking of a lot of money.

28 Where does a railroad fit
29 into this? Well, not with the money, unfortunately. We
30 calculated that a railroad using unit trains of tank

INSERT: This p. 31

is part of a supplementary sheet
attached to P. 11 of the
Mackenzie Valley

cars, more or less permanently connected, could move from one to twelve or more million barrels of oil per day, that is to say, about one-half to six times what a 48-inch pipeline could carry, and we could carry it more cheaply than the pipelines could, and at apparently less environmental costs.

In addition, there were substantial secondary benefits from a railroad. No one has yet found out how to roll cabbages or potatoes out of the back end of a pipeline, but a railroad can move a vast array of goods and people in both directions.

Now, included in these other goods is natural gas. Liquified natural gas can be moved in special tank cars of a type which are already in use, nothing new, at a cost which is apparently only very slightly greater than by pipeline, if only gas is moved, and less than pipeline if oil or other products are also moved. None of these take into account secondary effects. In other words, one railroad could move the products of a gas pipeline, of an oil pipeline, and various other things on the one railroad.

And the secondary effects of a railroad are so significant that they have to be carefully considered.

Now, a pipeline involves a substantial capital expenditure at the beginning of the construction period. There are no returns until everything is complete and you start to move gas or oil or whatever. Therefore, the construction time is kept as short as possible. We have got to start getting the

INSERT: This, p. 361
is part of a supplementary
attached to Part IV of the
Mackenzie Valley Pipeline Proj

1 money back. Very large numbers of skilled workers would
2 be used over a two to four year period, they tell us.
3 At the end of this time a very few, very highly skilled
4 persons, some three hundred to six hundred, depending on
5 who you talk to again, would then operate the system and
6 at a maximum achievable capacity. Once the construction
7 is over, everybody goes home except these few guys who
8 run it.

9 Now, a railroad doesn't have
10 such high expenditures at the beginning. It can start
11 operations both to build itself and to move goods and
12 people, if necessary, as soon as you have some track and
13 some locomotives and some cars. The pace can be as slow
14 or as fast as seemsto be desirable overall.

15 The range of skills that is
16 required to build a railroad is much broader and less
17 specialized than to build a pipeline. Jobs should be
18 available at all levels for all Northerners who want
19 them in fact. When the railroad moves to the operating
20 stage, many jobs are available there, four thousand to
21 seven thousand or so, depending on what is moving and on
22 the size of the railroad. Some construction workers
23 would certainly remain as operating personnel, in fact,
24 as many as wish to remain obviously. There are probably
25 more jobs than people.

26 If they chose to do so, some
27 of the existing settlements in this transportation Corri-
28 dor could become permanent links on such a rail system.
29 Furthermore, the railroad could serve as a link between
30 the communities making a highway unnecessary. Local

(INSERT): This, p. 362

is a part of the supplementary
attached to the
PART IV, "Marketing and Distribution"

1 roads could do all that was needed in most cases,
2 In fact, many people feel that a highway or a through
3 road, which the pipeline would need, is not a desirable
4 thing from the point of view of the local citizens.

5 Now, relatively unrestricted
6 access to the MacKenzie Valley might well lead to a des-
7 tructive pace of development. The whole concept of a
8 transportation Corridor was developed to control this
9 rate of development and to control its deleterious
10 effects, but I think that we haven't paid too much
11 attention to this control. We haven't paid enough
12 attention to all the subsidiary developments that must
13 accompany a pipeline development.

14 A railroad would require at
15 least one big town as a terminal, at its terminal end,
16 and it might be that the people of the Northwest Terri-
17 tories don't particularly want a big town. In that case
18 the town would have to be built much farther south, be-
19 low the 60th Parallel, and it could be so built. But
20 this raises another question, do we want petroleum
21 development in the Arctic right now, or indeed in the
22 near future?

23 Professor North and Mr.
24 Cairns and various other people have said, "No, we don't
25 need Arctic oil and gas at this time. We may well need
26 it later." The U.S. needs it both now and later, and
27 what they need, they usually get.

28 Construction of a pipeline
29 big enough to be economic requires a high through-put
30 from the earliest possible moment in order to pay.

*This, p. 363
is a part of the Supplement
sheet of pages, attached inserted,
in the "The Mackenzie Valley
Pipeline Inquiry"*

1 Since we don't need the oil or gas yet, it is going to
2 be sold, mainly to the United States. Indeed, it is
3 reported that much of the yet undiscovered MacKenzie
4 Delta gas has already been sold, or anyway contracted to
5 the United States, and at very modest prices at that.

6 When we finally need this
7 gas, most of it will already be gone, and if we are able
8 to buy our own gas at all, it is going to be at a very
9 high price.

10 It has been suggested, main-
11 ly by the oil companies, that any delay in the develop-
12 ment of Arctic oil and gas supplies will be exceedingly
13 costly to the United States, and by implication, to
14 everyone else. One billion dollars per year has been
15 offered as the cost of delay.

16 We have made, and we have
17 published, without any refutation whatsoever, some
18 calculations which show that delay of from one to per-
19 haps as much as six or seven years was profitable to the
20 United States at the rate of from 250 million to over
21 one billion dollars. Now, I didn't say profitable to
22 the oil companies, I said profitable to the United
23 States. The oil companies may very well lose money on
24 it.

25 This rate of profit was
26 based on 3 to 6% inflation in cost per year. When we
27 made these projections in 1972, we were told that oil
28 which was then \$2.80 a barrel would probably not rise
29 above \$5.00 a barrel before 1985 or maybe even before
30 the end of the century. I believe the 1974 world price

*This page 364 -
is a part of a confidential file
of the Ministry of Energy
and is not to be released
to the public.*

bedside reading to add to your pile.

THE COMMISSIONER: I think that -- I think that since, Mr. Law, there is an argument that relates to the question of whether I can consider alternate modes of transporting Arctic gas down -- up the Mackenzie Valley. I think for the time being I will decline your invitation to read this material. I think that I really should decide that before we get into the merits of a railway which I take it your material does relate to. But anyway, thank you very much for your submission.

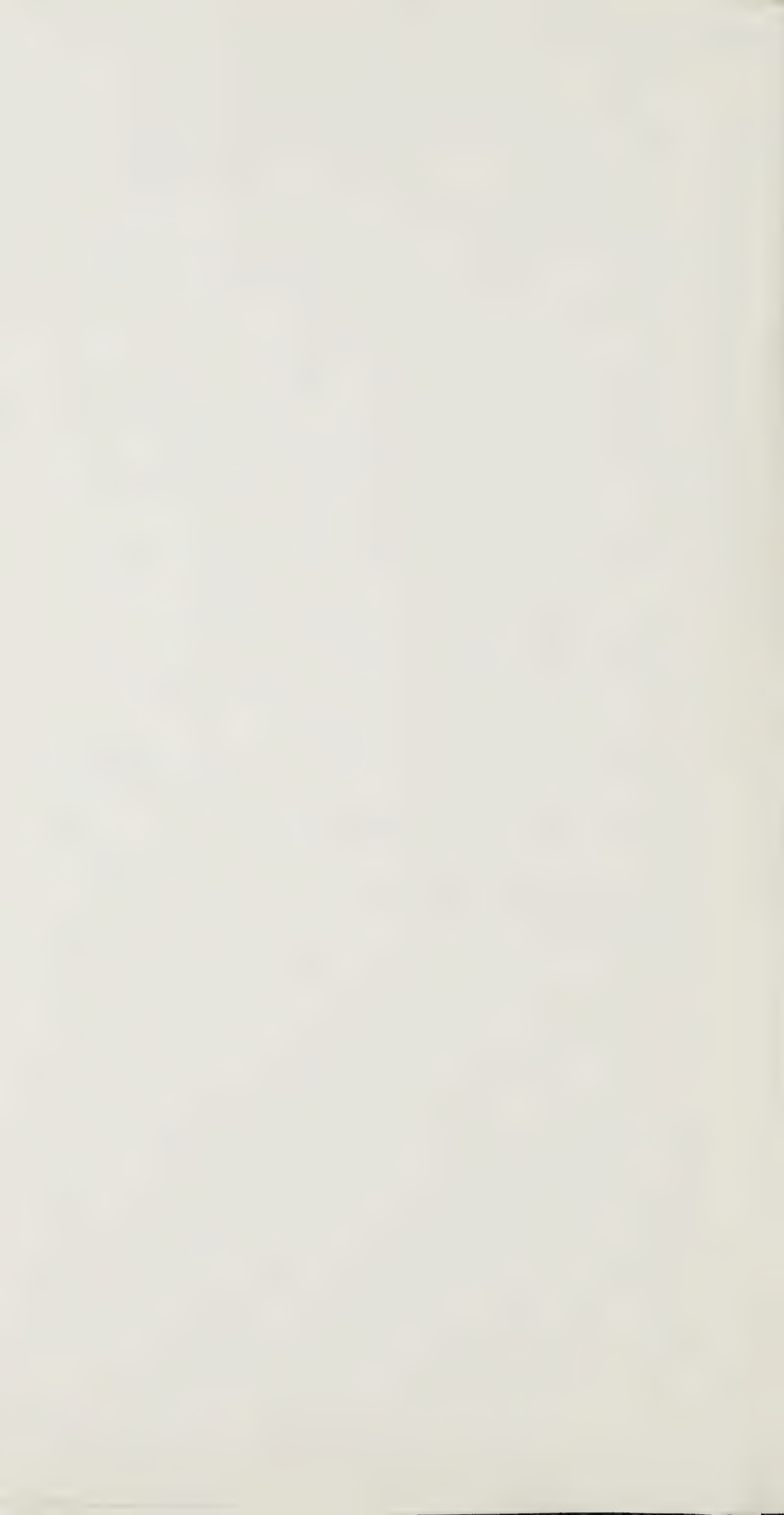
I think we will hand these over to Miss Hutchison and have her hold them as an exhibit for identification.

I am not going to explain what that means.

So, we will adjourn until 10:00 o'clock tomorrow morning.

(PROCEEDINGS ADJOURNED TO 10:00 A.M., TUESDAY, MAY 7th, 1974.)

*This p. 36
is a part of supp
of pages, inserted into the
IVth Vol. of the Mackenzie
Depository Register.*



is about \$10.50 a barrel.

We haven't mentioned the question of removal of a pipeline after use, and in fact it doesn't seem to be mentioned in any of the papers, although it is mentioned in the Guidelines, but removal of a pipeline can be very nearly as costly as its construction in the first place, and if the pipeline is not removed or otherwise neutralized, the consequences can be very serious.

I think this is a question which has to be examined very carefully indeed. Whatever action is taken, it is going to be semi-pre-emptive. I mean by that, that the first action is going to set the stage for a very long time to come. If we make a mistake at stage one, it will probably be impossible to turn back.

Now, although I head a railroad institute, I am not saying that a railroad should be built to move Arctic gas or Arctic oil or Arctic anything else. What I do say is that all the reasonable alternatives should be considered, and considered very carefully, having in mind the long term good of Canada. I do think that a railroad has so many special potential advantages, secondary and primary, that it should be considered in this new version of the national dream.

Thank you very much.

THE COMMISSIONER: Thank you very much.

MR. LAW: I have some light

*This p 365
is a part of a supplementary sheet
of pages inserted into (the) Part
of the Mackenzie Valley Pipeline*

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Publication

MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF AN APPLICATION BY CANADIAN ARCTIC GAS
PIPELINE LIMITED FOR A RIGHT-OF-WAY THAT MIGHT BE
GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY
AND THE NORTHWEST TERRITORIES FOR THE PURPOSE OF THE
PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC
IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND
SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Hon. Mr. Justice T.R. Berger, Commissioner)

Ottawa, Ontario

May 7, 1974

PROCEEDINGS AT INQUIRY

VOLUME V

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M835
Vol. V

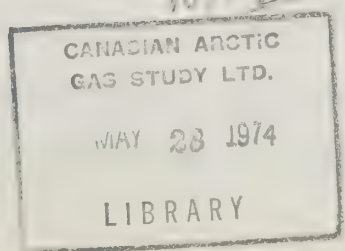
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Vol. I



1 OTTAWA, Ontario,

2 May 7th, 1974.

3 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

4 THE COMMISSIONER: Well, we
5 will come to order.

6 The two submissions that are
7 to be made this morning, those that intend to make them
8 have asked that they be allowed to make them after

9 these questions that Mr. Goldie and Mr. Lucas intend
10 to argue have been discussed, so we will start off with
11 this -- with Mr. Goldie and then Mr. Lucas, and then
12 anybody else who wants to make a submission on these
13 procedural questions that it was announced late yester-
14 day afternoon would be argued today.

15 So, Mr. Goldie.

16 MR. GOLDIE: Thank you, Mr.
17 Commissioner.

18 I have no written statement
19 and if anybody cannot hear me, I hope you will let me
20 know, or if anybody would like me to stand while I am
21 speaking, I would be glad to do so. I will be speaking
22 from notes, and therefore, as I say, I have no written
23 statement.

24 Mr. Commissioner, as I indi-
25 cated yesterday, my submission is directed to the manner
26 in which the Inquiry should proceed, and is intended to
27 deal with questions raised in the course of the hearings
28 in the North on the 22nd, 24th and 25th of April, and
29 yesterday here, as well as re-stating in a summary form
30 the position of the applicant with respect to procedural

1 matters.

2 I have arranged my argument
3 under the following heads:

4 First, the scope of the
5 order-in-council, or what has been from time to time
6 referred to as the terms of reference of the Inquiry.

7 Second, the use of the
8 Expanded Guidelines for Northern Pipelines, as tabled
9 in the House of Commons on June 28th, 1972.

10 And, finally, procedures
11 suggested for the purposes of this Inquiry.

12 First, the scope of the
13 terms of the order-in-council or the terms of reference.
14 In one form or another, Mr. Commissioner, it has been
15 suggested that you should consider:

16 (1) The National Economic Impact of the appli-
17 cant's proposal.

18 (2) Land claims of Native peoples.

19 (3) Environmental and socio-economic impact of
20 producer activities, including gas fields.

21 (4) Alternate means of transporting gas.

22 (5) A hydro-electric scheme on the Great Bear
23 Lake.

24 (6) Whether the applicant should be given permis-
25 sion to construct the pipeline.

26 (7) Transportation of supplies.

27 (8) The form of order or recommendation.

28 With respect to all these,
29 the applicant submits that provisions of order-in-
30 council P.C. 1974-641 are clear and provide you with a

1 guide that can be followed. It will be my submission
2 that these provisions are not to be regarded as narrow
3 or broad. In my submission they are drawn so as to
4 allow for a reasonable division of labour between you
5 and the National Energy Board, and I will develop this
6 in greater detail.

7 But, first, I refer to the
8 order-in-council itself. The Commissioner is to, and
9 I quote:

10 "Inquire into and report upon the terms and condi-
11 tions that should be imposed in respect of any
12 right-of-way that might be granted across Crown
13 lands."

14 And then skipping a few words:

15 "Having regard to:

16 (a) The social, environmental and economic impact
17 regionally" --

18 skipping a few words,

19 " of the proposed pipeline."

20 And (b):

21 "Any proposals to meet the specific environ-
22 mental and social guidelines set out in the
23 Expanded Guidelines."

24 The matters referred to in
25 Clauses (a) and (b) are to be investigated in reference
26 to the terms and conditions under which the applicant
27 will be allowed to use Crown land in the Northwest and
28 Yukon Territories. These are the regions in which
29 Crown lands, subject to the jurisdiction of the Minister
30 of Indian Affairs and Northern Development, under the

1 Territorial Lands Act are found.

2 Now, it is submitted that
3 the impact of the applicant's proposal on the capital
4 markets of Canada, for example, cannot affect the terms
5 of an easement to be granted the applicant in respect of
6 these regions. I submit that full effect must be
7 given to the word "regionally" in clause (a) of the
8 order-in-council. And in my submission, that word
9 clearly confines the subject matter of your recommenda-
10 tions to those matters which are within the jurisdiction
11 of the Minister in respect of which he has sought your
12 assistance.

13 Yesterday, Mr. Commissioner,
14 you referred to (a), that is to say, paragraph (a) of
15 the order-in-council in the context of its relationship
16 to the Guidelines, and you asked if I understood your
17 point, whether these matters allowed you to go beyond
18 the Guidelines in considering (a). In my submission
19 they do. What you are to have regard to under (a) is
20 not modified by the Guidelines at all. The modifying
21 words are "regionally" and "proposed pipeline".

22 Now, "regionally" I have
23 made my submission with respect to. It is to direct you
24 to the area under the jurisdiction of the Minister.

25 Proposed pipeline means this
26 line. That is to say, the line proposed by this appli-
27 cant.

28 You also asked for some sub-
29 missions with respect to the scope of paragraph (b) of
30 the order-in-council, and I will deal with that when I

1 come to discuss the scope of the Expanded Guidelines.

2 Now, when I said that the
3 order-in-council properly read did not encompass one of
4 the suggested propositions, namely, the impact nation-
5 ally of the applicant's proposal. I must say at this
6 point that the applicant does not seek to evade the
7 question of national impact. I wish to refer to the
8 Regulations of the National Energy Board.

9 I wonder -- Mr. Chairman, I
10 have had duplicated the Regulations of the National
11 Energy Board and appended to them is a schedule which I
12 will be referring to a little later on, but if those
13 Regulations could be passed around to everybody who is
14 interested. I suppose everybody knows them off by
15 heart, but on the assumption that they don't, I would be
16 happy to dole them out.

17 Perhaps I could proceed, Mr.
18 Commissioner.

19 What I have had duplicated
20 is from the Regulations of the National Energy Board,
21 and I am referring to the Schedule which is headed:
22 "Information required to be filed by the applicant for
23 a certificate in respect of gas pipeline."

24 Now, before I go any further,
25 I might point out that these requirements were drawn up
26 at a time when gas pipelines in Canada bought and sold
27 the gas that they transported, and, of course, this pipe-
28 line is unique in the sense that it is a common carrier
29 of gas, it doesn't buy or sell gas.

30 Now, in relation to the ques-

1 tion of National Impact, I refer to Item 15 which
2 states, and I quote:

3 "The financial responsibility and financial struc-
4 ture of the applicant, the methods of financing the
5 line, and the extent to which Canadians will have
6 an opportunity of participating in the financing,
7 engineering and construction of the line."

8 Now, the applicant has organ-
9 zed its material under the headings of this schedule.
10 Certain material didn't seem to fit specifically under
11 certain headings, and it has been fitted in where it was
12 most convenient. But, under 15, the applicant expects
13 to provide evidence to the National Energy Board of the
14 national impact of the applicant's proposal. I say
15 that, and I want to stress that, because in my submis-
16 sion dealing with the respective jurisdictions, I want
17 to deal with everything that has been raised to date in
18 this Inquiry, and to show that the applicant will be
19 dealing with every suggestion made with the exception
20 of the Great Bear hydro project, and I will be submit-
21 ting to you that that is irrelevant because it is not
22 part of the applicant's proposal.

23 I have suggested to you, Mr.
24 Commissioner, that the question of national impact lies
25 outside the terms of order-in-council P.C. 1974-641 be-
26 cause it is national. It is not regional. And it does
27 not have to do with the terms and conditions which might
28 attach to the applicant's use of lands under the juris-
29 diction of the Minister of Indian Affairs and Northern
30 Development. But it is within the requirements of the

1 National Energy Board. And consideration here, in my
2 submission, would result in duplication of work by this
3 Commission and the National Energy Board.

4 And this brings me to my
5 submission as to the relationship of your Inquiry to that
6 of the National Energy Board and to the larger question
7 of who determines whether this project will proceed.

8 The terms of reference of
9 the -- provided by the order-in-council, in my submis-
10 sion, have been carefully drawn, and I say that from
11 simply a reading of them in terms of what has to be done.
12 The objects, which the draughtsman appears to have had
13 in mind, are two-fold:

14 First, to bring your report
15 within the scope of the Minister's jurisdiction. And I
16 have dealt with that.

17 Second, to avoid overlapping
18 the work and jurisdiction of the National Energy Board.
19 And I wish to expand on that a bit.

20 We must bear in mind that
21 ultimately it is the Governor-in-Council who will decide
22 whether the project will go ahead, and if so, upon
23 what terms. And this is what we would expect in a
24 democratic society. Namely, that final responsibility
25 for a matter such as this rests upon the party command-
26 ing the support of Parliament.

27 The Governor-in-Council will
28 decide on whether the project will proceed on a recom-
29 mendation of the National Energy Board, acting upon an
30 application for a Certificate of Public Convenience and

1 Necessity.

2 In acting upon that applica-
3 tion, the National Energy Board will, as I have indica-
4 ted, consider every topic that I first listed, except
5 that of the Great Bear hydro project.

6 On the other hand, in deter-
7 mining the terms and conditions on northern lands, to be
8 imposed on the use of northern lands, the Governor-in-
9 Council will act upon the recommendation of the Minister.

10 The Minister has asked you,
11 Mr. Commissioner, to take evidence and report to him on
12 those subjects which are relevant to those terms and
13 conditions. The two streams of recommendations come
14 together at this point, namely, the Governor-in-Council,
15 and I submit that the draughtsman had that very clearly
16 in mind. It would be a very wasteful duplication to
17 have recommendations coming forward from these two
18 sources which dealt with, in part, at least, the same
19 subject. Such a result should not be sought for, in my
20 submission, but should be avoided.

21 Now, the scope of duplica-
22 tion, which would result if you gave effect to some of
23 the propositions we have heard, is very much larger than
24 what the proponents of those proposals would have you
25 believe.

26 Take, for example, one of
27 the suggestions we heard yesterday, namely, gas supply
28 and gas markets.

29 If these subjects are to be
30 examined, every producer would have to be brought in and

1 every distributor. Every consumer's organization in
2 Canada that has an interest in the cost of energy at the
3 point of use would want to be, and would need to be,
4 represented. The Governments of Ontario and Quebec
5 have a vital interest in this and they are not repre-
6 sented here but I assume they will be as they have been
7 in the past before the National Energy Board.

8 Before the Board, this com-
9 pany does not expect to bear this whole burden.

10 As I mentioned a few minutes
11 ago, we do not produce the gas we are going to carry.
12 We do not own it, and we will not sell it. We will ex-
13 pect that the producers will carry the burden of answer-
14 ing questions on the supply end. We will expect those
15 who buy and sell the gas will deal with other matters
16 relating to the disposition of gas.

17 I mention this only to under-
18 line my point. The order-in-council, when read with the
19 areas of responsibility of the National Energy Board,
20 cover the whole spectrum of public interest.

21 Now, may I now deal with the
22 question of Land Claims, and to a certain extent I will
23 repeat what I said at Yellowknife and Whitehorse.

24 7 MAY 1974 MR. GOLDIE On the question of Land
25 Claims, it is the applicant's understanding that the
26 Canadian Government has stated that it is prepared to
27 sit down with the Native peoples, when they are ready,
28 and that any decision relating to a pipeline will not
29 affect the Native claims or rights. We understand that
30 negotiations have begun with some groups. The applicant

1 will deal with anybody found to have or to be granted
2 interest in lands. And the position of the applicant is
3 very simply put.

4 It hopes that all Native
5 organizations and governments -- and government, will
6 commence negotiations. It hopes that an equitable
7 settlement will be reached, but the applicant believes
8 that what it proposes will be beneficial regionally and
9 nationally, and that the relatively small use of land
10 for its buried pipeline will not inhibit other land
11 uses.

12 I want to illustrate this
13 point by using what is the obvious example. Suppose the
14 land claims were settled in favour of the Native peoples
15 whether by litigation, legislation, or negotiation, and
16 that they owned right now part or all of the land over
17 which the pipeline route would proceed. Suppose further
18 that the Government of Canada decided that it was in the
19 public interest of Canada as a whole that this line go
20 forward. The pipeline company would then negotiate
21 fair compensation for the right-of-way, and if no settle-
22 ment could be reached, then that compensation would be
23 determined in accordance with procedures that apply to
24 all owners of land affected by a pipeline.

25 In my submission, it does
26 not infringe the rights of Native peoples in the land
27 comprising the right-of-way to determine what terms
28 should be imposed on the applicant's use or proposed use
29 so long as the compensation for that use is paid to them
30 if it is determined they have rights.

1 I would hope, Mr. Commis-
2 sioner, that they would continue to participate in these
3 proceedings in the manner that they have indicated that
4 they would, and that is to say, that they will continue
5 to take an interest in the vital question of the terms
6 and conditions to be attached to the use of these lands.

7 However, what is important
8 now, that is to say, in this procedural preliminary, is
9 that, in my submission, the question of Native claims is
10 not included in the terms of the order-in-council and
11 should not be included in these proceedings.

12 My next heading is matters
13 that were suggested that the Inquiry should consider.
14 No. 3, the Environmental and Socio-Economic Impact of
15 Producer Activities, and I include in that, gas fields.

16 Now, I have -- I repeat, if
17 I may put it this way, what I said with respect to the
18 jurisdiction of the National Energy Board and your Com-
19 mission, because that affects all of these matters ex-
20 cept the Great Bear Hydro project.

21 However, with specific refer-
22 ence to the Environmental and Socio-Economic Impact of
23 Producer Activities, these are the subject matter of
24 different regulations and will be the subject matter of
25 applications by the producers.

26 I have already said that the
27 applicant does not own the gas it will transport, it will
28 not be selling that gas. It will be transporting that
29 gas for a fee that will yield the company a return on
30 its investment at a rate to be determined by the

1 National Energy Board. In other words, it is a contract
2 carrier operating on a cost of service transporting
3 other people's gas. And that conforms to Guideline No.3
4 of the Pipeline Guidelines issued in 1970, a guideline
5 that was left unchanged in the Expanded Guidelines.

6 Now, this limitation is
7 underlined in the Expanded Guidelines which refer at
8 pages 7 and 10 to Trunk Pipelines. And the Trunk Pipe-
9 line of the applicant is described in its application.
10 They do not include activities in the field, and as I
11 have said, those activities must be the subject matter
12 of applications by the producers.

13 THE COMMISSIONER: Before
14 you go on, Mr. Goldie, would you point out to me that
15 Guideline that you have said occurred in 1970 and again
16 in 1972.

17 MR. GOLDIE: Yes. Well,
18 the 1970 Guideline, to which I referred, is No. 3 which
19 reads as follows:

20 "Each of these lines --"

21 And if I may interrupt for a moment, the Guideline was
22 referring to oil and gas pipelines at that point.

23 "Each of these lines will provide either common
24 carrier service at published tariffs or a contract
25 carrier service at a negotiated price for all oil
26 and gas which may be tendered thereto."

27 Oil pipelines are more com-
28 monly common carrier service. This would be the
29 first contract carrier service for natural gas.

30 The Guidelines that were ex-

1 panded in 1972 were Guidelines 2, 6, and 7.

2 It is my submission, Mr.
3 Chairman, that the conditions to be imposed on the
4 applicant's use of land subject to the jurisdiction of
5 the Minister for its trunk pipeline is a question en-
6 tirely separate from the gathering and processing arti-
7 vities of the producers.

8 Now, if I may deal with the
9 next heading which is "Alternate Means of Transporting
10 Gas."

11 It was suggested that alter-
12 nate modes of transportation should be examined in the
13 course of this Inquiry. We heard evidence yesterday on
14 one alternative means of transportation, and I assume
15 that Mr. Law will come before the National Energy Board
16 so that he may be cross-examined on some of the things
17 that he stated.

18 I say this, that the Energy
19 Board will be required to determine whether the Canadian
20 public interest is served by the applicant's proposal
21 and in so doing, it will examine all alternative methods
22 of transporting natural gas. The exhibits prepared by
23 the applicant before the applications were filed provides
24 for this.

25 However, the order-in-
26 council here speaks of the terms and conditions and I
27 quote in part:

28 "That should be imposed in respect of any right-of-
29 way for the purposes of the proposed pipeline."

30 In my submission it is clear-

1 ly outside this order-in-council to suggest that one
2 term of an easement to be granted the applicant for a
3 pipeline should be that it transport gas by rail.

4 The question of the Great
5 Bear hydro project falls outside the order-in-council, in
6 my submission, for much the same reason. What is being
7 considered is the "proposed pipeline". The applicant's
8 proposed pipeline is not in any way concerned with this
9 hydro project, since the applicant intends to run its
10 compressors, chilling machinery and generators with
11 natural gas.

12 I say now that the applicant
13 would be perfectly happy to see as a condition of land
14 tenure in the North, that such tenure was granted in
15 respect of a pipeline using natural gas for its chilling,
16 compressing and generating requirements. It is not part
17 of our proposal that we use energy from the Great Bear
18 hydro project, and as I have indicated, we would be per-
19 fectly happy to see as a condition something which put
20 that out of its misery, so far as this application is
21 concerned.

22 I had listed as a separate
23 heading the question of whether these proceedings --
24 I am sorry, whether this application should proceed as
25 a subject matter for this Inquiry.

26 THE COMMISSIONER: Before
27 you do that, Mr. Goldie, you have dealt with the ques-
28 tion whether alternate means of transporting the gas
29 fall within the scope of this Inquiry. You haven't men-
30 tioned consideration of alternative pipeline routes. Is

1 there any issue as to that?

2 MR. GOLDIE: No. No, Mr.
3 Chairman. We anticipate that you will wish to consider
4 that question in the North.

5 On that -- no, I think that
6 is -- I was going to deal now with the question of trans-
7 porting supplies but I will keep that as a separate
8 head.

9 THE COMMISSIONER: Well, no
10 one raised this question of alternate routes and it does
11 appear to be covered expressly by the Guidelines at the
12 top of page 11. Now, you have no doubt examined that
13 and that is why you didn't discuss it, but I thought I
14 would raise that so that --

15 MR. GOLDIE: Yes.

16 THE COMMISSIONER: -- so
17 there would be no misunderstanding about it if anyone
18 does say that it doesn't fall within the terms of refer-
19 ence of this Inquiry.

20 MR. GOLDIE: Well, I -- for
21 whatever benefit, or for whatever comfort it is, I say
22 it does, and we will assume that we will be required to
23 lead evidence on that point.

24 Mr. Commissioner, if I may
25 return to the question of whether it is a subject matter
26 of this Inquiry to decide whether the pipeline applica-
27 tion should proceed, I have already indicated, in my
28 submission with respect to the complementary jurisdic-
29 tion of the Energy Board and your Inquiry, that that
30 question is ultimately one for the Governor-in-Council

1 acting upon a recommendation of the Energy Board.

2 I can only add here that that question is ultimately the
3 prerogative of the Governor-in-Council, and I don't think
4 I can add to that.

5 The next heading that I
6 noted on the question of the scope of the terms of the
7 order-in-council was one raised by Mr. Sutton, namely,
8 the transportation of supplies.

9 7 MAY 1954 MR. GOLDIE: I agree that the transporta-
10 tion of supplies within the Northwest and Yukon Terri-
11 tories falls within the scope of this Inquiry, insofar
12 as that consideration leads you to recommendations with
13 respect to terms and conditions on the land tenure grant.

14 The last heading I had was
15 the Form of the Recommendation. I may not have under-
16 stood that completely, but I assume that the form of the
17 order was what was being meant there, order being the
18 terms and conditions attached to the grant. And I
19 assume that you will be asking for submissions on that
20 point.

21 THE COMMISSIONER: We are a
22 long way from there, I think, at the moment.

23 MR. GOLDIE: Yes, it would
24 take me at least until tomorrow, Mr. Chairman, to be
25 ready on that.

26 Mr. Lucas indicated that he
27 would be submitting argument on additional material to
28 be filed, and he mentioned by reference to the appendix
29 to the application the National Energy Board, I should
30 say Schedule 1, that he would be asking for the filing of

1 Section 1, Gas Supply Under Contract; Section 3, Gas
2 Sale Contract; Section 2, Market Projections; Section 4,
3 Gas Supply Areas; Section 10, Cost of Facilities; Sec-
4 tion 14 (b), Impact of Applicant's Proposal on the
5 Canadian Economy.

6 Now, to the extent that I
7 have indicated to you, the applicant's views on the
8 respective jurisdictions of the Energy Board and your
9 Inquiry, I submit that those requests for material are
10 simply parallel to the topics which have been suggested
11 you might consider and what I said with respect to the
12 topics applies to the request for the filing of this
13 material. It will, of course, be filed with the
14 National Energy Board. That is part of the Phase II
15 filing with that body. And the applicant has made
16 phased filings with the National Energy Board, and one of
17 its reasons was to avoid the accusation that it has
18 dumped an enormous mass of material on somebody's desk.
19 Well, it is dumping that material in phases, and Phase
20 II will include that material, but, in my submission, it
21 is not relevant for the reasons I advanced to your con-
22 sideration of the terms and conditions to be attached to
23 the use of land in the North.

24 Now, Mr. Commissioner, this
25 brings me now to the consideration of the use of the
26 Expanded Guidelines.

27 The Guidelines, of course,
28 have no statutory basis. They appear to be a statement
29 of Government policy. The particular Guidelines that
30 were expanded in 1972 were Paragraphs 2, 6 and 7 of the

1 1970 Guidelines, and the character of these Guidelines
2 is found, or indicated, at page 4. If I may read from
3 that. It is the fourth paragraph and I quote:

4 "In order to translate the intent of these Guide-
5 lines into action, where this is appropriate, the
6 applicant will be required to enter into agreements
7 containing covenants that detail specific under-
8 takings."

9 Now, it is apparent, in my
10 submission, that the recommendations of this Inquiry,
11 and in particular paragraph (b) of the Order-in-Council,
12 or those under paragraph (b), will form a basis for the
13 Minister's determination of what covenants will be re-
14 quired of the applicant before it is permitted to use
15 land in the North.

16 These Guidelines are not the
17 equivalent of licencing requirements which if complied
18 with would entitle the applicant as a matter of right to
19 licence. The Government of Canada has reserved to it-
20 self complete flexibility in respect of these Guide-
21 lines, and a good example of that is found in the dis-
22 cussion of the Corridor concept on pages 7 and 8 of the
23 Expanded Guidelines.

24 It is apparent, in my sub-
25 mission, from the discussion on those pages, that the
26 Corridor concept is not one that can be applied gener-
27 ally, but is to be selectively examined in the light of
28 particular circumstances.

29 Guideline No. 3 develops
30 that point. But it is also apparent that when Guideline

1 No. 3 was draughted, the draughtsman contemplated,
2 amongst other considerations, the possibility of com-
3 peting applications. The Government has -- when I say
4 competing, I mean -- I don't mean that in quite the same
5 sense as we have been using it, that there might be both
6 an oil pipeline and a gas pipeline, or there might be
7 several applications for a gas pipeline and several
8 applications for an oil pipeline, and in effect the
9 draughtsman was saying, only one of each is going to be
10 built, and we want to be able to evaluate the impact of
11 each.

12 Now, the applicant has pro-
13 vided as much information, as is available to it, on the
14 oil pipeline.

15 Now, I understood particular
16 reference was made to the oil pipeline. In its exhibit
17 -- excuse me, Mr. -- Exhibit 14 (e) Alternative Corri-
18 dors and Systems of Transportation under Tab 1.8, there
19 is a discussion of the common Corridor considerations.
20 And that, together with evidence elsewhere on the oil
21 pipeline, provides, in my submission, the material
22 necessary for a consideration of the degree to which
23 under Clause (b) the applicant's proposals meet the
24 requirements of the expanded pipelines -- Expanded
25 Guidelines.

26 We have not included the
27 Report of the Mackenzie Valley Oil Pipeline Group, but
28 that is a public document, and it is available to any-
29 body.

30 THE COMMISSIONER: Just so I

1 know what document you are referring to, is that a
2 Government document you are speaking of?

3 MR. GOLDIE: No, it is a
4 report that was filed by the group that was investigat-
5 ing the feasibility of an oil pipeline down the Macken-
6 zie Valley, and it is specifically identified in Exhibit
7 14(d), Tab 410.4.

8 The group that conducted the
9 research was Mackenzie Valley Pipeline Research Limited.
10 Their report is entitled: "Arctic Oil Pipeline Feasibi-
11 lity Study 1972", and, as I say, that is a -- when I say
12 public document, I think it is freely available. I
13 don't understand it to be a Government document.

14 The applicant -- I am sorry --

15 THE COMMISSIONER: That docu-
16 ment is available, I take it, Doctor Fyles?

17 MR. FYLES: Yes.

18 MR. GOLDIE: I would have
19 been very put out if the answer to that question by
20 Doctor Fyles had been no.

21 The thrust of Guideline No.
22 3 is the assessment of the suitability of the applicant's
23 route or nearby routing of other pipelines. Now, that
24 implies that the routing of another pipeline is known.
25 I think you will find, or I think it is acknowledged,
26 that the oil route pipeline could not be finally deter-
27 mined until the characteristics of the crude oil to be
28 transported were more definitely known, and I don't think
29 that any further work has been done on that since the
30 report that I have mentioned.

1 In any event, the applicant
2 submits that it has filed evidence which allows for an
3 assessment of suitability of its route in terms of
4 Guideline 3.

5 THE COMMISSIONER: Excuse me
6 for interrupting you again but this -- were these Guide-
7 lines initially framed at a time when it was thought
8 that the oil found at Prudhoe Bay might be brought down
9 -- up the Mackenzie Valley to the United States and not
10 across the Alaskan Peninsula to Valdez. Has that got
11 anything to do with this? Have the Americans actually
12 decided anything yet? Do we know?

13 MR. GOLDIE: May I answer
14 that first in terms of the 1970 Guidelines.

15 The statement made at that
16 time was, and I quote:

17 "The Guidelines related to pipelines tapping oil
18 and gas resources of the 60th Degree of Latitude
19 in the Yukon Territory and the Northwest Territor-
20 ies. They established requirements ranging from
21 environmental protection, pollution control and
22 Canadian ownership and participation to training
23 and employment of residents of the North."

24 Now, that was preceded by a
25 paragraph stating on August 13th, 1970 Canadian Govern-
26 ment Guidelines for construction and operation of Nor-
27 thern Oil and Gas Pipelines were announced jointly.

28 That appears to be directed
29 to the transportation of oil produced in Canada.

30 Now, in 1972, when the Guide-

1 lines were expanded, they simply state, in the Forward,
2 and I quote:

3 "The Government is today making known its current
4 views on Expanded Guidelines for the construction
5 and operation of oil and gas pipelines in the Yukon
6 Territory and the Northwest Territories."

7 A more direct answer to your
8 question, so far as I am aware, in 1972, when the Guide-
9 lines were issued, there had been no clear resolution of
10 the direction that Alaskan Oil would take, but there has
11 now.

12 THE COMMISSIONER: Has there
13 been an Act of Congress?

14 MR. GOLDIE: Could I just
15 consult with my colleague?

16 THE COMMISSIONER: Certainly.

17 MR. GOLDIE: I am instructed,
18 Mr. Commissioner, that there has been an Act of Congress
19 enacted with respect to the Trans-Alaska Pipeline and
20 the construction will begin this summer. I am further
21 instructed that the study that is referred to certainly
22 contemplated the transportation of Alaskan crude oil,
23 that is to say, the study that is referred to in the
24 applicant's exhibit.

25 Now, reference was made to
26 Guideline No. 4, and that is on page 11, Mr. Commission-
27 er.

28 That reads as follows:

29 "In relation to the pipeline Corridors identified
30 in (1) above, the Government will identify geogra-

1 " phic areas of specific environmental and social
2 concern or sensitivity, areas in which it will
3 impose specific restrictions concerning route or
4 pipeline activities and possibly areas excluded
5 from pipeline construction."

6 So far as my instructions go
7 there have been no areas so identified by Government,
8 but I think it is evident that in respect of this Guide-
9 line, and having regard to the general intention of the
10 Guidelines, that announcements of this character could
11 be made at any time before construction and during con-
12 struction. But, as far as the applicant is concerned,
13 it has had no information of areas, and it has laid out a
14 route which reflects its own environmental work and mat-
15 ters and it has, of course, reflected in its exhibits
16 its assessment of social concerns and sensitivities.

17 I have a note that you made
18 reference to Guideline or Item No. 6 on page 29. This,
19 I assume, Mr. Commissioner, is a covenant that the
20 Minister would require the applicant to enter into and
21 as I read it, it is very similar to covenants found in
22 pipeline rights-of-way. The reference to Native peoples
23 I take is by way of emphasis to underline the fact that
24 they are included within the larger class described as
25 territorial residents. It does not set them apart or
26 confer upon their claims under this category or this
27 item a special status. The compensation is in respect
28 of loss suffered by any resident in connection with his
29 undertaking, which, of course, may include something
30 that has no property relationship, or property which is a

1 word that is self-explanatory.

2 The Guideline, in my submission,
3 does not require you to identify anticipated loss.
4 The requirement for compensation under this Guideline
5 arises when loss results, that is to say, follows from
6 construction or operation or abandonment.

7 I think a good example of
8 what is being aimed at there is where, in the course of
9 construction, some damage is done to crops which lie out-
10 side the right-of-way. This kind of a covenant requires
11 the pipeline to compensate for that sort of thing.

12 Now, applying that to the
13 North, one could find examples of undertakings which
14 were temporarily damaged or injured. If that hap-
15 pens, that is to say, if it results from construction
16 operation or abandonment, then the Minister would refer
17 to that covenant in the grant. It is not compensation
18 for the right-of-way as such.

19 Finally, Mr. Chairman, I
20 wish to deal with some matters which come under the head-
21 ing of Procedure to be Used in the Course of the Inquiry.

22 And the first point that I
23 wish to deal with here is the question of delay.

24 A number of parties here
25 have requested a delay, some of up to one year and one
26 for an indefinite delay. This is a very serious ques-
27 tion. I submit that delay would prejudice, not just the
28 applicant, but the people of Canada generally, and I
29 wish to sub-divide my submission to you under two heads.

30 First, in respect of the pub-

1 lic interest of Canada, and secondly, with respect to
2 the public interest of the peoples of the North.

3 Now, on the first, the posi-
4 tion the applicant takes is that there are large re-
5 serves of natural gas in the Mackenzie Delta and these
6 will be needed to secure and re-inforce Canada's energy
7 needs within a few years. I have mentioned to you that
8 the applicant's pipeline will be Canadian owned and con-
9 trolled, and Canadian operated.

10 It is going to be costly to
11 transport gas over the large distances involved. It is
12 in the public interest of consumers of gas in Canada
13 that the transportation costs of this gas be kept as low
14 as possible. In the applicant's submission, this
15 can be best achieved if this Canadian line transports
16 Alaskan gas to the United States. The applicant proposes
17 to build a line where up to 50% of the cost of transpor-
18 tation will be borne by the American user of American
19 gas and where economies of scale can be achieved.

20 The applicant intends to sub-
21 mit evidence to the National Energy Board in proof of
22 its contention that the cheapest means of transporting
23 Canadian gas to Canadians is to build a large, in this
24 case, 48-inch pipeline. Now, this is a very big line.
25 Half of the capacity in that line will be taken up by
26 Alaskan gas being transported to the United States. If
27 the line is built to carry Canadian gas alone, it would
28 be very much smaller, but the reduction in cost is not
29 in proportion. You still must dig a ditch in the winter-
30 time. You still must transport men and materials to re-

1 mote areas. About the only clearly identifiable reduc-
2 tion would come from the reduction in steel tonnage.
3 When I say reduction, I mean reduction in cost would
4 come from the reduction in steel tonnage.

5 The resulting unit cost for
6 the smaller line, unit cost that is of transporting an
7 McF of gas, would be substantially larger than the unit
8 cost of the proposed line.

9 Now, the effect of this on
10 the cost of gas to users in Eastern Canada or the market
11 areas of Canada, is so obvious that I won't enlarge upon
12 that.

13 So, I say that the public
14 interest of Canada is best served by a large diameter
15 pipeline carrying Alaskan gas as well as Canadian gas.

16 Now, the second point, pub-
17 lic interest in the North. The applicant intends to
18 prove, and it will be adducing evidence before you in
19 proof of this contention, that the construction and
20 operation of the pipeline will provide a unique opportu-
21 nity for the people of the North to better their environ-
22 ment and their conditions, but at the least cost to the
23 environment and in a manner that will cause the least
24 disruption to traditional ways of life.

25 Most people think of the
26 construction of a pipeline as the major period of job
27 opportunity. Of course, there will be many job oppor-
28 tunities during the construction of this line. But in
29 addition, after the line is constructed, the people of
30 the North will be offered the opportunity of permanent

1 employment that will provide for many a transition from
2 a land/^{based} occupation to a wage earning economy, but it
3 will be their choice.

4 The presence of a buried
5 line will not interfere with the trapping, hunting and
6 fishing which are the traditional pursuits of the
7 Native peoples.

8 The mode of constructing
9 that line has been shaped so as to interfere to the
10 least possible extent with the environment and way of
11 life of the peoples. But, the operation of the line,
12 and its maintenance, will offer Northern peoples an
13 alternative, which they do not have today. And the
14 applicant is very serious about providing this choice.

15 The northern training pro-
16 gramme, which the applicant is conducting, is proof of
17 this.

18 I have a note to refer
19 to pages 22 and 23 of Exhibit 14(f) of that exhibit
20 which is the description of the northern or training
21 programme. I read this because it bears on this
22 point, and it also is indicative of why it has taken
23 four years for the applicant to reach this point.
24 And this is from page 22:

25 "As indicated earlier, Alberta Gas Trunk Line
26 initiated the programme which is now administered
27 by the applicant and has been expanded by the
28 sponsor companies of the applicant. During 1971,
29 1972, and the first half of 1973, the Alberta Gas
30 Trunk Line Programme operated on the basis of

1 " approximately eight positions, and during such per-
2 iod maintained twenty-five persons in those posi-
3 tions or in training for them.

4 With the expansion of the
5 programme in 1973, the sponsoring companies parti-
6 cipating in the training programme co-ordinated by
7 applicant made available positions for seventy-
8 three trainees during 1973. All positions were
9 filled. A detailed breakdown of the type of occu-
10 pation is set forth below. The broad range of job
11 types made available is readily apparent and is con-
12 sistent with the applicant's desire to provide
13 opportunities in all phases and at all levels in
14 the petroleum industry.

15 During 1974 it is planned
16 that the training programme will be expanded to
17 approximately one hundred and twenty training sit-
18 uations with additions in the areas of pipeline
19 operations and pipeline construction. An effort
20 will also be made to provide more clerical account-
21 ing types of jobs with the participating companies.

22 As the time approaches when
23 it is hoped a certificate to build and operate a
24 gas pipeline will be granted, the number of train-
25 ees will be increased according to the circumstan-
26 ces prevalent at that time."

27 Now, it is not stated there,
28 but this is a training programme for Native peoples who
29 would ordinarily not have the threshold of skills which
30 would be required to obtain employment of this character.

1 And it is a training programme which will be
2 described to you in detail.

3 What was said by the Chief
4 of the Community at Fort Franklin illustrates this sub-
5 mission. The applicant has shaped its policies so as
6 not to interfere with traditional pursuits. But when he
7 said there were no wages and no employment at Fort
8 Franklin, he underlined the lack of choice for Native
9 peoples, and it is the provision of this choice which
10 supports the applicant in its submission on this point,
11 that is to say, the question of public interest to the
12 peoples of the North.

13 Now, Mr. Commissioner, I
14 want to bring those propositions into focus in respect
15 of this question of delay.

16 Delay in commencing the sub-
17 stantive task of this Inquiry may imperil or even kill
18 this project. The result would, in my submission, be
19 the loss of the national benefits I have outlined and a
20 long delay in the regional benefits. And this is for a
21 reason which is beyond the control of the applicant.

22 In Inuvik the submission of
23 the Northwest Territories Association of Municipalities
24 spoke of the potential competition from an El Paso applica-
25 tion for an Alaskan route.

26 Now, this competition is
27 not potential. It is there. El Paso, which is the
28 largest single -- the largest natural gas pipeline com-
29 pany in the United States, has now formally stated it
30 will file applications to take Alaska gas west from

1 Prudhoe Bay to the Coast, to liquify it, and to trans-
2 port it by tanker to a California port for distribution
3 in the United States.

4 The Governor of Alaska has
5 stated he supports this proposal, and no one should
6 under estimate the ability of El Paso to carry out what
7 it proposes. It is one of the leaders in the technology
8 of liquified gas. It presently transports very large
9 volumes of natural gas in this manner from Algeria to
10 the east coast of the United States.

11 The El Paso proposal finds
12 favour with some people in the United States, especially
13 those who believe that the national security of that
14 country is in some way served by an All American Route.

15 The applicant believes that
16 its proposal is better for the United States, that is to
17 say that it can stand comparison with the El Paso pro-
18 position on the basis of merit alone and demonstrate
19 that it is superior. It believes that it can make
20 available to the United States Alaskan gas at a lesser
21 transportation cost and at points of delivery which are
22 more suited to the needs of that country.

23 The El Paso Company is at
24 this time actively seeking to persuade the United States
25 that a Canadian line is an undesirable means of trans-
26 porting Alaska gas. One of their allegations is that
27 there will be so many delays in the Canadian regulatory
28 and governmental procedures, that it would be years before
29 Arctic Gas could ever hope to start work.

30 Now, Mr. Commissioner, your

1 Commission is the first step in the Canadian regulatory
2 and governmental procedural chain. There is little
3 doubt that a delay of a year in starting the work of
4 this Commission would be regarded by many people in the
5 United States as proof the El Paso allegations. El Paso
6 is keeping a very close watch on what is going on. It
7 has intervened in the proceedings in the United States
8 commenced by this applicant's sister company, the Alaska
9 Gas Company.

10 Should the El Paso proposal
11 be accepted by the United States, it would remove Alaska
12 Gas from the Canadian line. Not only would this increase
13 the cost of transporting Canadian gas to Canadian mar-
14 kets, but would also delay the construction of the Can-
15 adian line despite Canada's need for that gas.

16 I want to stress at this
17 point that the applicant is not asking for any shortcuts
18 and it is not asking for any favours. What it is ask-
19 ing for, is the opportunity to display its proposal and
20 to have that proposal subjected to a full, fair and im-
21 partial examination on the merits, and it seeks the co-
22 operation of everybody who has appeared at these hear-
23 ings in the belief that that is indeed what they want,
24 that is to say, an examination on the merits.

25 Now, in respect of the ques-
26 tion of delay and the reasons that have been advanced to
27 you, I submit that there has been no present prejudice
28 demonstrated.

29 Let me take first the pro-
30 position that the applicant spent four years preparing

1 this material and is asking interested people to deal
2 with this mass of material within a period of months.
3 I ask you to consider that argument with these points in
4 mind.

5 First, the applicant has
6 compiled base line data as a result of field work over a
7 period of years, and it is acknowledged that no one pro-
8 poses to go out and do that field work all over again.
9 In other words, the recorded Caribou sightings are going
10 to be treated as evidence of that fact, and nobody is
11 going to go out and do it all over again.

12 The second point, engineering
13 solutions to unique problems are not found overnight,
14 but their validity can be tested very quickly. And that
15 is demonstrated in the courts of this land day after day.

16 Third, the Northern training
17 programme began in 1971 with eight positions. This year
18 it is planned to operate on the basis of one hundred and
19 twenty positions. The results of that programme care-
20 fully developed year after year could not be obtained in
21 one year. But people can express opinions on the valid-
22 ity of that programme very quickly indeed and no doubt
23 will.

24 Fourth, there will be found
25 in the exhibits, and in the back-up material, support
26 for the opinions stated in the exhibits. These again
27 represent work which will not be duplicated, and no doubt
28 other people will have different opinions on that work.

29 Finally, it has been known
30 for years that the applicant would be filing an applica-

1 tion. And I say, with all respect, that no one is being
2 taken by surprise here who has paid any attention to
3 what has been going on since 1970 when the first Guide-
4 line was issued. Substantial published work pre-
5 pared by both Government and private sources has been
6 available to the serious researcher well prior to this
7 application.

8 Now, yesterday, we had a
9 submission by Doctor Page who said that they had been
10 studying this matter for two years, and he felt suffic-
11 iently confident of the results of that study to say
12 that the reports of the applicant had been doctored or
13 abridged.

14 Now, if this is so, he is
15 able -- he has demonstrated a knowledge which would
16 allow a devastating cross-examination. If it is not so,
17 and I -- my instructions are to the contrary -- my
18 instructions are that it is not so, then of course that
19 statement should not have been made.

20 But, what I am getting at,
21 Mr. Commissioner, is that throughout -- and I referred
22 to this at Yellowknife -- throughout the submissions of
23 the people who have indicated they intend to appear, it
24 is a very well documented or apparently well documented
25 understanding of the nature of the proposal.

26 Now, the people who addres-
27 sed you in the North on April the 22nd, 24th and 25th,
28 and yesterday, have all been agreed on the desirability
29 of informal or community hearings. And it is the sub-
30 mission of the applicant that these could go forward

MR. GOLDIE:

promptly.

7 MAY 1974

It was suggested that the peoples of the North, especially the Native peoples, are ignorant of the pipeline proposal and that a lengthy period of communication or education is needed before these community hearings could begin.

With respect, this ignores not only the communication work done by the applicant and its -- but also that done by the Government of Canada and other groups.

I am instructed that the Department of Indian Affairs and Northern Development conducted between August 1972 and March 1974, an extensive programme of education about the proposed pipeline of Canadian Arctic Gas.

I am further instructed that the termination of this programme was at the request of the Native Peoples Organization.

The programme, according to my instructions, involved essentially four full-time administrative employees, plus eleven full time positions in the various communities of the pipeline area. These workers were almost all Native peoples trained for the tasks and often chosen by local Native leaders. They were employed for the sole purpose of informing the residents about the proposed pipeline and later on the Mackenzie Highway.

I say nothing -- well, I do, I want to say one thing about the Northern training programme which has a bearing on this.

1 The recruitment for the
2 Northern Training Programme, especially last summer, was
3 carried on in large measure by Native peoples. It in-
4 volved going into the communities and explaining what
5 the pipeline was, and would be. The applicant has co-
6 operated with the Government programme in furnishing
7 materials and when invited, speakers.

8 In addition, the applicant
9 has had a full-time Northern information officer for
10 over two years whose sole function has been to impart
11 information to the Northern people.

12 In addition, many of the
13 Arctic Gas employees have made presentations in the
14 North, and have also conducted informal discussions.

15 Gemini North Limited of
16 Yellowknife, one of the socio-economic consultants to
17 Arctic Gas, has made informational tours and other trips
18 to the North over the past five years.

19 Additionally, Arctic Gas
20 Environmentalists have worked out of Northern communi-
21 ties for the past four summers, often living in communi-
22 ties as a base of operations with consequent contact
23 with local peoples.

24 The applicant has distributed
25 literature, films, and film strips in northern communi-
26 ties over the past several years, and is sending copies
27 of its applications and supporting materials to each
28 settlement council and band council in the northern
29 areas which will accept it. And, of course, the major
30 Native peoples associations have had copies of this

1 material since March 21st. I am instructed that
2 other groups have conducted informational efforts in
3 the north.

4 I think, Mr. Commissioner,
5 that we saw yesterday people before you who indicated
6 that two different interests, or levels of interest, in
7 this application. There was the Chief from Fort Frank-
8 lin who stated in very precise terms concerns of his at
9 the community level and that, with respect, is the
10 sort of thing that you would be able to find out in your
11 community hearings right away.

12 Then we have the level
13 of interest of the Canadian Arctic Resources Committee,
14 which is, if I may put it this way, an informed and
15 sophisticated level of interest. Their principal par-
16 ticipation will, I assume, be at the formal hearings
17 which we submit could take place this fall, and at the
18 hearings before the National Energy Board.

19 But, I ask you to bear in
20 mind, that there are two different levels of interest
21 and the meetings which have been proposed that you hold
22 are, if I may say so, rather specifically aimed at those
23 two levels. And each is a very important level and I
24 am not suggesting that one is any more important than
25 the other. The results will provide you with the mater-
26 ial that is necessary for the purposes of your recommen-
27 dations or your report to the Minister.

28 I should mention here the
29 observation made by Mr. Osler with respect to the
30 specific omission to provide two pieces of material.

1 Gemini North has been referred to and the back-up
2 material consisting of that report will be out as soon
3 as the printing is completed. We said in the north
4 June 1st. I am instructed that it will be ready before
5 that.

6 Mr. Osler referred to Pro-
7 fessor -- a report of a Professor Stuecki. I am in-
8 structed he was a Staff Member of the Boreal Institute
9 of the University of Alberta which worked on a report
10 filed as an Appendix to Exhibit 14(f), and which is
11 part of the socio-economic material relied on by the
12 applicant.

13 Now, as far as I am aware,
14 either Professor Stuecki's views were incorporated in
15 that report, because the Boreal Institute was his em-
16 ployer, or it is not. The decision with respect to that
17 is not the applicant's but that of the Boreal Institute
18 and accordingly his colleagues.

19 Of course, anybody is free
20 to call any witness at the formal hearings. who has had
21 anything to do with the matters relating to what we are
22 talking about. But I just wanted to say that the appli-
23 cant was not suppressing anything provided by Professor
24 Stuecki, if indeed he has provided anything.

25 Now, Mr. Commissioner, un-
26 less you consider it to be inappropriate, the applicant
27 will continue its information programmes in the Yukon
28 and Northwest Territories, just as any other person is
29 free to carry on the same kind of programmes.

30 If you feel that in addition

1 to these things there is a need for supplementary infor-
2 mation work, I submit that this should be done by your
3 staff, and that the dissemination of that information
4 should be carried on in the presence of whatever parties
5 to these proceedings wish to be present are present.
6 But if this is the condition, or if this is your deci-
7 sion, then no participant in these proceedings, including
8 the applicant, should carry on an information programme
9 on any official or semi-official basis under
10 your purported authority.

11 It is the submission of the
12 applicant that this preparatory phase, if felt necessary
13 by you, could and should be completed by July 14th, and
14 that the community hearings should start on July 15th.

15 Now, these sessions, in our
16 submission, should be conducted by you personally, again
17 with such other parties present as wish to be there, in
18 such places as you choose, and should be conducted in an
19 informal manner.

20 The gathering of evidence by
21 an Inquiry officer, as we have already submitted to you,
22 would, in our submission, be an illusory advantage be-
23 cause cross-examination could be requested of any wit-
24 ness who gave significant evidence.

25 THE COMMISSIONER: You don't
26 have to develop that, Everybody is against that sugges-
27 tion.

28 MR. GOLDIE: Well, I think it
29 appears that the one person who is in favour of it, Mr.
30 Butters, was using it in a different sense than what has

1 been used by other people.

2 At these informal hearings,
3 the right of questioning of witnesses, or people who
4 give statements, should be preserved, but not in any
5 full sense of cross-examination, but for the purposes
6 of clarification only.

7 And if you feel it desir-
8 able to have witnesses there for general informational
9 purposes, then they may either be people who make the
10 same statement at each community, but the -- it is
11 undesirable, I think, at these community hearings, hav-
12 ing regard to their purpose, to have a formal presenta-
13 tion of evidence at a series of places, followed by
14 questioning in a formal sense.

15 These submissions are made
16 to you, Mr. Commissioner, in the sense that these com-
17 munity hearings will be devoted very largely to hearing
18 the basic desires and experiences of private citizens,
19 again such as was suggested by the Chief from Fort
20 Franklin. They would not be built upon the formality
21 of answering cases of others or upon the report of the
22 Assessment Group, and thus can precede submissions of
23 that Group's report. Certainly, in our submission, they
24 should precede the more formal hearings so that the
25 latter can take the information from the community hear-
26 ings into account.

27 The involvement of the
28 Assessment Group provides yet another assurance that a
29 full range of information is available to all who are
30 interested.

1 This body is apparently made
2 up of people from various branches of Government who
3 have been studying the question of a pipeline for some
4 time. Its report will presumably constitute an aid to
5 everyone who takes an interest in the broader issues and
6 will place in the hands of interested parties an
7 analysis which might otherwise take groups, acting inde-
8 pendently, some time to prepare.

9 The use of this report will
10 enable interested parties to isolate areas of concern to
11 them, with respect to the applicant's proposal, and so
12 to prepare for cross-examination of the applicant's
13 expert and policy witnesses.

14 The applicant submits that
15 once the Assessment Group's report is ready and distri-
16 buted, it will be possible for the formal hearings to
17 begin very shortly thereafter.

18 You mentioned yesterday that
19 you were giving consideration to a procedure under which
20 the requests of the Assessment Group for additional in-
21 formation from the applicant would be made public and
22 the applicant's answer to that, and we agree with that.

23 Also, I understood you to
24 suggest that if the Assessment Group's report became
25 available in steps on an interim basis, that you would
26 consider distributing those parts. I am not sure whe-
27 ther I was correct in my understanding of that part of
28 your observation.

29 THE COMMISSIONER: I meant
30 if
that/their statements calling for additional information

1 were available from time to time between now and Septem-
2 ber when their Report is available, then I was consider-
3 ing making their -- of course, distributing their state-
4 ment to Arctic Gas and to the other parties, and since
5 that -- and making it public as well, as -- but I wasn't
6 thinking of interim reports. However, I am glad you
7 have raised that. That may be worth considering as
8 well.

9 MR. GOLDIE: As I have said,
10 we certainly concur in the benefit that might flow
11 from making public any requests for further information
12 in matters like that, and I do submit that if there is
13 any interim information available from the Assessment
14 Group and by way of preliminary conclusions, it might be
15 useful to distribute those before the final report.

16 It was suggested by counsel
17 for ^{the Counsel for} Yukon Indians that these hearings should await the
18 decision of the National Energy Board.

19 I should say first that that
20 Board has followed a policy heretofore, at any rate, of
21 requiring applicants to file their land granting agree-
22 ments as exhibits in the proceedings before it, as part
23 of the determination of the feasibility of the proposal,
24 the Board's position being that in determining feasibi-
25 lity, it must have to as full an extent as possible, the
26 ability to assess the effect of terms and conditions
27 attached to land use. It follows from that that the
28 applicant should be able to state with assurance what
29 the terms attached to the land use will cost when it
30 presents its case to the National Energy Board.

1 But, I can put the proposi-
2 tion another way. If I understood the submission that
3 was made to you at Whitehorse, it was this: You should
4 do nothing until the National Energy Board decides
5 whether this project should go ahead or whether it
6 should make a favourable recommendation, because other-
7 wise you might be wasting your time.

8 The same thing could be
9 said of the reverse proposition, that the National
10 Energy Board should do nothing until you make your re-
11 port to the Minister and he makes his recommendation to
12 the Governor-in-Council, because if he recommended that
13 no grant should be made to the Governor-in-Council, then
14 it would be a waste of time and money for the National
15 Energy Board to proceed.

16 The solution, surely, lies
17 in my submission earlier about the complimentary nature
18 of the two jurisdictions. If that is so, then both
19 should proceed as expeditiously as the whole process of
20 fact finding, opinion sifting, and decision making
21 allows. If we are right in our submission that there
22 is a complimentary jurisdiction, and there is no overlap,
23 then there should be no concern about who goes first.
24 Each, as I say, is contributing to the single decision
25 which the Governor-in-Council must make.

26 I wish to add one other ob-
27 servation with respect to the question of overlap, and
28 it has to do with some of the submissions that are made
29 to you.

30 It was said that it is very

1 expensive to get into these complicated questions of
2 gas markets, macro-economic effects, and the like, and
3 you have been asked to provide funds to hire experts to
4 do this.

5 All these issues will be
6 raised before the National Energy Board and they would
7 be no simpler here than they would be before that
8 Board. It is the issues which control the costs.
9 I would think that it might cost more to have an expert
10 appear before two Boards than it would be to appear be-
11 fore one.

12 It was suggested by Mr.
13 Osler that there were defects in the NEB procedures.
14 It is not my part to defend the procedures of the
15 National Energy Board, but I do point out that that
16 body is a court of record, statutory provision is made
17 for appeals. At least, in my experience, every inter-
18 venor receives deficiency letters and the reply to
19 those deficiency letters.

20 Mr. Osler's body apparently
21 has intervened four times, and there is no reason to
22 suppose it won't again. I have not heard it sug-
23 gested here that any of the people who wanted to talk
24 about gas markets in these proceedings would be ready to
25 pass up the opportunity of intervening before the
26 National Energy Board.

27 And as a ground for delay,
28 the propositions that were based on these -- the complex
29 nature of those subjects, should not, in my submission,
30 carry weight with you.

1 There are some disadvantages
2 in the informality of the procedures suggested for the
3 community hearings, if I may return to that topic for a
4 minute.

5 THE COMMISSIONER: Yes, I
6 wonder if we might adjourn for coffee now and you can
7 return to that afterwards.

8 When we do return, would you
9 tell me if you can get instructions on the subject, the
10 procedures that your client's sister company has to
11 follow in order to get a right-of-way from Prudhoe Bay
12 to the Yukon. I assume there is some kind of applica-
13 tion to the Secretary of the Interior. And then I
14 assume there is another application to whatever Tribunal
15 is analogous to the National Energy Board.

16 MR. GOLDIE: Yes.

17 THE COMMISSIONER: And you
18 might tell me where your sister company is at and what
19 progress is expected to be made there. I only say that
20 because I read in the paper that El Paso has intervened
21 there.

22 MR. GOLDIE: Yes.

23 THE COMMISSIONER: And you
24 will be confronting, I take it, an adversary situation
25 there, not only from environmentalists and Native organ-
26 izations, for all I know, but from another gas company.

27 MR. GOLDIE: Certainly
28 El Paso has not only intervened, but it has announced
29 that it will be filing a competing application.

30 THE COMMISSIONER: Yes.

1 MR. GOLDIE: And indeed it
2 must do that if it is to carry through to the logical
3 conclusion its intention.

4 THE COMMISSIONER: I see.

5 MR. GOLDIE: Yes, I will be
6 glad to do that.

7 THE COMMISSIONER: We will
8 adjourn for coffee.
(PROCEEDINGS ADJOURNED)

9 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

10 THE COMMISSIONER: All right,
11 we will come to order again, please.

12 I will ask Mr. Goldie to
13 complete his submission and then we will break off the
14 argument addressed to these specific questions and
15 hear the submission of Mr. Mercredi representing the
16 Small Businessmen and Employed Natives of Fort Simpson,
17 and then Mr. Belcourt of the Native Council of Canada.
18 After that, we will break for lunch, and then this
19 afternoon we will hear from Mr. Lucas of Canadian Arctic
20 Resources Committee and the others who wish to speak to
21 the specific questions.

22 Now, Mr. Goldie.

23 MR. GOLDIE: Mr. Commission-
24 er, just before the break you asked me some questions
25 with respect to the procedures in the United States.

26 My instructions are that the
27 filings which have been made in the United States by the
28 sister company, Alaska Arctic Gas, were made to the
29 Federal Power Commission and to the Department of the
30 Interior. Very roughly speaking, those two agencies or

1 bodies have the same jurisdiction or parallel jurisdic-
2 tion to the National Energy Board and the Minister of
3 Indian Affairs and Northern Development.

4 The two agencies, that is to
5 say, the Federal Power Commission and the Department of
6 the Interior have agreed on a joint environment impact
7 assessment under the National Environmental Protection
8 Act, and that is now in the course of preparation.

9 There are no requirements
10 for hearings on the part of the Department of the Inter-
11 ior, and Alaskan Gas has been informed that if there are
12 any hearings, they will be short. In other words, the
13 full development of the Environmental and Socio-Economic
14 matters will take place before the Federal Power Commis-
15 sion.

16 The Alaskan Gas Company ex-
17 pects the Federal Power Commission proceedings to com-
18 mence sometime in the Fall on a competitive basis, that
19 is to say, El Paso and Alaskan Gas. The FPC has issued
20 its notice of intervention and the date for registration
21 of intervenors has closed.

22 Does that assist you?

23 THE COMMISSIONER: Yes.

24 MR. GOLDIE: Mr. Commissioner,

25 I will be very short in concluding my submission this
26 morning.

27 THE COMMISSIONER: Well, be-
28 fore you do, there is one other thing. I have been ad-
29 vised, perhaps wrongly, that under the National Environ-
30 mental Assessment Act, I think it is the same Act that

1 you spoke of, that the United States authorities are
2 bound by Statute to take into account the environmental
3 impact on Canada.

4 I was curious, because it
5 occurred to me that if there were American studies about
6 the Canadian environment underway, it would be useful to
7 know about them and to see if they could be obtained.

8 I only throw that out be-
9 cause perhaps the other parties at this inquiry concei-
10 vably might have some knowledge of that subject. Am I
11 right in my assumption about the U.S. legislation?

12 MR. GOLDIE: My instructions
13 are that you are. The copies of the applicant's exhibits
14 here will be filed in the United States. So far as is
15 presently known, it is not contemplated that independent
16 studies would be made for the purpose of determining the
17 impact on the Canadian environment, by the U.S.
18 Government that is.

19 THE COMMISSIONER: Yes,
20 thank you.

21 MR. GOLDIE: Mr. Chairman,
22 just before the break -- or Mr. Commissioner, I should
23 say, just before the break I had said that there were
24 some disadvantages involved in the adoption of informal
25 procedures. These appear to be justified in the view of
26 the applicant because the peoples of the North should be
27 accommodated in their desire to inform you of all the
28 matters that concern them. But, at this time, in my sub-
29 mission, the requests for delays that you have heard are
30 a different proposition.

1 They are, if I may put it
2 this way, based upon apprehension rather than a showing
3 of actual prejudice. The processes which have been
4 suggested to you are in themselves part of the prepara-
5 tion for the more formal hearings which would take
6 place in the Fall if the kind of timetable which the
7 applicant has suggested was adopted. And indeed, it
8 is the timetable that was suggested by the Yukon Council
9 in its exhibit at Whitehorse, Exhibit 15, which spoke of
10 formal hearings in the Fall.

11 To accede to a general
12 claim --

13 THE COMMISSIONER: Excuse me,
14 the Yukon Council of -- there was a Yukon Resources
15 Council and there was the Yukon Native Council, I think,
16 just so --

17 MR. GOLDIE: It is the
18 Council for Yukon Indians, Exhibit 15, and my reference
19 is to this: It is realized this preliminary hearing is
20 not to consider that position but to set ground rules
21 for hearings in the Fall of 1974, so that all interested
22 persons could be heard.

23 I am quite aware that that
24 is not precisely the timetable that Mr. Lueck sugges-
25 ted in the course of a later discussion at Whitehorse.

26 It is the applicant's sub-
27 mission, Mr. Commissioner, based upon the propositions
28 that have been put to you this morning, that to accede
29 to a general claim for a delay on the basis of the
30 reasons that you have heard so far, would provide no one

1 with a demonstrated benefit, and might work indeed
2 irreparable harm on those who are most concerned.

3 I attach to the Regulations
4 of the Federal -- National Energy Board a suggested se-
5 quence of steps, and I should explain that this came
6 about simply because I sat down and tried to work out a
7 step procedure which would take into account everything
8 that we had heard up until the hearings in the North.
9 It is meant to indicate no more than a possible solu-
10 tion. The dates appear to be precise. They, of
11 course, cannot be precise in the sense they are simply
12 selected for purposes of illustration, but, neverthe-
13 less, the suggested sequence of steps does, in the sub-
14 mission of the applicant, allow for a commencement of
15 the formal hearings early in the Fall, and provides
16 ample opportunity for people to prepare themselves for
17 that.

18 Applications for time will
19 always come about in proceedings of this nature as the
20 hearings get -- go along their course. It
21 would be most extra ordinary if we didn't hear sometime
22 in the course of the hearings, the formal hearings that
23 is, somebody say, "Well, I would like to defer cross-
24 examination of that man for a week, because it is a very
25 complex subject". And that is something that you deal
26 with in the course of the proceedings.

27 What I am concerned about is
28 this general proposition that these proceedings
29 shouldn't even begin for a year. It is that which,
30 in my submission, could well prove to have such undesir-

1 able results in relation to the whole scheme of the
2 applicant.

3 Mr. Chairman, finally, I
4 should say that the -- repeat what I said at Yellow-
5 knife, that the formal hearings should consist of the
6 evidence of the Assessment Group; the evidence in chief
7 of the applicant, which might consist of no more than
8 formal proof of the exhibits, followed by cross-
9 examination of the experts and panel of experts in the
10 usual way; the evidence of intervenors and cross-
11 examination and reply and argument.

12 That is pretty much -- I
13 don't think there is much dispute over the kind of for-
14 malities that attach to your more formal hearings.

15 The applicant makes no sub-
16 mission with respect to the use of subpoena powers,
17 which was raised one or two times, simply because you
18 have the power of subpoena, and on individual applica-
19 tions to exercise that power, I assume you will hear
20 submissions from any who are affected. I don't think
21 there can be any dispute over your powers.

22 The applicant makes no sub-
23 mission with respect to the request for funding, except
24 to submit that such requests, whether granted or not,
25 should not be allowed to delay the hearings.

26 That concludes my submission,
27 Mr. Commissioner.

28 THE COMMISSIONER: I should
29 say, before we go any farther, that in the course of the
30 hearings, I have had read some of the written submissions

1 received by the Inquiry.

2 Now, I think I should say
3 that there have been many letters received by the Inquiry
4 from citizens all over Canada expressing their views
5 about the merits of the pipeline proposal. I didn't
6 have those read because I felt these preliminary hear-
7 ings should be confined, as far as possible, to questions
8 of procedure. But all of those letters, as far as I am
9 concerned, that have been received, the latest one recei-
10 ved just a few minutes ago from the Bishop of the Yukon,
11 The Right Reverend John T. Frame,-- all of those letters
12 are part of the record of this Inquiry, and they are all,
13 so far as I am concerned, public documents and anyone
14 who wants to look at them may, but I didn't have them
15 read because they really didn't relate to the question
16 of holding the hearings and all of these matters that
17 have been discussed today.

18 So, if anyone here has writ-
19 ten, your letter hasn't been buried in some secret
20 cavern, it has in fact come to the attention of the
21 Secretary, and the Secretary has forwarded those to me
22 that relate to the issue we are concerned with now.
23 But, they are, nevertheless, all in the possession of the
24 Secretary and you may look at them.

25 MR. GOLDIE: Mr. Commissioner,
26 I am somewhat concerned over the question of these let-
27 ters. I think that it is clear to all that these pre-
28 liminary proceedings are to assist you in determining on
29 the procedure that you will be following.

30 I understood you to say that

1 a number of these letters dealt with the merits of the
2 proposal, and that they became part of the record. I am
3 not clear whether by that you mean that they will be
4 treated as an exhibit and thus should be -- the proposals
5 put forward in them should be considered by the appli-
6 cant, or whether they are, as it were, in a state of
7 suspended animation, and if the writers don't turn up to
8 put forward their views at the hearings on the merits,
9 that they have some other different status.

10 THE COMMISSIONER: Well, let
11 me put it this way: They are on the file in the posses-
12 sion of the Secretary. Anyone who wishes to look at
13 them, may. The Secretary has passed some of them on to
14 me that related to questions of procedure and they have
15 been read. Some of them are a mixture of procedure and
16 substantive matters which won't come as a surprise to
17 anybody here, and I have looked at those. But I think
18 that the procedure that we will follow is that these
19 letters, and any others that are received relating to
20 the merits, should be made, when we get past the pro-
21 cedural stage, should be made part of the record of the
22 Inquiry so that these people, who have expressed their
23 views, can be assured that their views have been taken
24 into account, but they haven't been marked as exhibits
25 at this stage.

26 MR. GOLDIE: No.

27 THE COMMISSIONER: Except
28 those that were read and were marked.

29 MR. GOLDIE: Yes. Well, I
30 think my immediate question has been answered, that the

1 other letters are not before you at this stage and we
2 need not concern ourselves until we get to the question
3 of the merits about them.

4 THE COMMISSIONER: Yes.

5 I mentioned the Bishop's letter as typical because he
6 does deal with procedural questions, but he is
7 dealing with the merits as well, and there is not a
8 great deal that one can do about that.

9 Well, we will now ask you,
10 Mr. Mercredi, to make your submission on behalf of the
11 Small Businessmen and Employed Natives of Fort Simpson.

12 MR. MERCREDI: Mr. Commis-
13 sioner, I represent the Small Businessmen and the
14 Employed Natives of the Fort Simpson region. I regret
15 that I was unable to present this intervention at the
16 hearings held in the Northwest Territories. We are not
17 funded by the Federal Government and attendance at hear-
18 ings is expensive.

19 The Small Businessmen and the
20 Employed Natives are very concerned with the outcome of
21 these hearings.

22 Mr. Commissioner, I will come
23 to the point. I believe the Canadian Government must
24 make an honest and just settlement to the Natives north
25 of the 60th Parallel with regards to the Land Settlement
26 issue. That, I am sure, Mr. Commissioner, is what every-
27 one wants. It has been mentioned many times at these
28 hearings that the industrial operation in the North cease
29 for two years to enable the Native organizations and
30 other organizations to further research the Land Claims

1 issue. I do not feel this is justified.

2 Mr. Commissioner, I am no
3 lawyer and don't profess to be. If your recommendations
4 are in the same theme as these organizations, it would
5 no doubt become the crime of the century, and who are we
6 to blame. We, in the Northwest Territories, both Busi-
7 nessmen and Man-Labour Force will be subjected to the
8 same type of depression that our fathers experienced in
9 the 1930's. Are these same organizations, who are in
10 support of the Native organizations in halting industry
11 to operate in the North, are these same organizations
12 willing to compensate the working man who is presently
13 employed? I have my doubts.

14 You have heard from ecolo-
15 gists, environmentalists, social groups, including the
16 Native organizations, all asking the same thing. "We
17 need at least two more years of research", and on the
18 other hand, asking for support from the Government to
19 give them time and money.

20 That, Mr. Commissioner, in
21 modern day terms is called a "National Rip-Off".

22 The Native organizations,
23 Mr. Commissioner, have annually been funded, both by the
24 Federal and Territorial Governments. These funds, I
25 presume, were to research other programmes that would
26 benefit the Native persons, and also, I had hoped, to
27 advance the knowledge of the Native persons who are
28 basically isolated from the flow of civilization.

29 For the past two years the
30 pipeline issue has provided a welcome bandwagon to many

1 Southern organizations. You will recall many instances
2 of these "Save the North Organizations" in the course of
3 the hearings. They usually commence with "My organiza-
4 tion, nationally known", or, "My organization, the
5 largest in Canada, would like to see the Natives in the
6 Northwest Territories get the Land Settlement". So
7 would we all.

8 Mr. Commissioner, these same
9 type organizations have caused a great deal of dissen-
10 tion between the Native and the White societies in the
11 smaller communities in the Mackenzie and Liard areas.
12 We have had such an influx of researchers in the Terri-
13 tories these past two years that I would not be surprised
14 if someone had been funded by the Government to research
15 the researchers.

16 Fifteen years ago, Mr.
17 Commissioner, it could be understood that communication
18 in the North was slow due to the geographical area, but
19 today we live in a modern society, and yet communication
20 between the Native Society and the White Society still
21 has that geographical gap.

22 We have heard many times,
23 from all organizations, information involving the social
24 impact studies which have never been released by the
25 Government or by the Oil Companies. This also could be
26 said about the Native organizations. They have not yet,
27 as yet, released or published any of their findings.

28 Just to go further on the
29 research on the social impact studies, I find it very
30 odd that no one has grasped the social impact studies

1 that have been made on other native communities in Nor-
2 thern Ontario that once was affected by industry and the
3 departure of industry. A person would think that some
4 of these studies would be of some assistance to the
5 organizations to better understand what happened when
6 industry first operated in their locale. Again we re-
7 turn to the ecologists and environmentalists. They too
8 speak out strongly concerning the possible damage to the
9 environment if the pipeline were to be constructed.

10 It seems that these same
11 people always mention the ecological damage that may have
12 occurred because of a track vehicle on the tundra or
13 the erosion caused by melting snow after the track
14 vehicle has scarred some of the earth. However, they
15 have never mentioned the after effects of the Mackenzie
16 or Liard Rivers after break-up time. These two rivers
17 have been the cause of more damage than the construction
18 of any pipeline. This damage was caused by Mother
19 Nature. Are we to reprimand her?

20 There has never been any men-
21 tion since I have been here of the Pointed Mountain Pipe-
22 line which is in existence today and pumps gas into
23 British Columbia, nor any mention of the Canol Road which
24 was built in 1943, where also a pipeline and road were
25 built. It has been 31 years since the construction of
26 that road and I have had the privilege of walking on that
27 same road which still stands in perfect condition.

28 I believe that results such
29 as Pointed Mountain and the Canol Road and other successes
30 should also be balanced with the material mentioned at

1 these hearings.

2 Mr. Commissioner, the land
3 that lies north of the 60th Parallel is rich in gas, oil
4 and other minerals, which the Americans and the remain-
5 der of the World would like to have. The Northwest
6 Territories can benefit by being a part of the World
7 Trade Market, through the sale of our resources. The
8 returning revenue would one day support the Northwest
9 Territories towards the structure of a Province. For
10 the past while it has often been mentioned that we would
11 be selling our natural resources to the Americans.

12 Mr. Commissioner, I haven't
13 noticed any difference in their make-up compared to a
14 Canadian. Their money is just as good as ours.

15 If the Northwest Territories
16 were to become involved in World Trade, I cannot see
17 the rest of Canada suffering from a shortage of oil and
18 gas. I am sure that the people on Parliament Hill would
19 place some limitations on the export of these resources.

20 As I said earlier, if this
21 Commission decides to halt industry from operating in
22 the Northwest Territories, the consequences would be
23 disastrous. We would face the largest increase of
24 Native and White people on Welfare, which has so often
25 proved demoralizing and socially destructive.

26 This, Mr. Commissioner, I
27 would not like to experience, neither on my account nor
28 for any of the people I represent, nor for any of the
29 people I know.

30 I have taken enough of your

1 time, Mr. Commissioner, and in conclusion would like to
2 offer a sane solution to the issue.

3 I recommend that if there is
4 to be further research programmes in the Northwest
5 Territories, that these funds be administered by the
6 individual settlements, which will be affected by the
7 proposed pipeline. That the respective Chiefs and Band
8 Councils of these settlements sit with the Settlement
9 Chairman and Council to iron out the separatism between
10 the two societies.

11 I strongly believe that
12 these two Councils, working together, should arrive at
13 an understanding which will be of mutual satisfaction
14 to both.

15 It is also my belief that
16 these two bodies will give you a more accurate assess-
17 ment of their situation with regards to the social im-
18 pact of the proposed pipeline than a herd of imported
19 field workers.

20 Another aspect which might
21 be considered is the utilization of the available com-
22 munication facilities, in both English and the Native
23 tongue, to familiarize the inhabitants of these settle-
24 ments with the economic importance of this pipeline.

25 Also, that the Government
26 and Oil Companies immediately increase their training
27 programmes in all fields that govern the operation of a
28 pipeline, from skilled labour to administration.

29 Further, I feel that you
30 should go into the communities and hear what the Chiefs

1 and Band Councils have to say. You will hear the true
2 feelings of the people. What is heard in the South is
3 not always the same because of the communication diffi-
4 culties.

5 This should be done as soon
6 as possible since there is no need to wait another year
7 or two to begin discovering the feelings of the people
8 of the North.

9 Mr. Commissioner, it is
10 about time that we should start working together for the
11 benefit of all Canadians.

12 Thank you.

13 THE COMMISSIONER: Thank
14 you, Mr. Mercredi. Your submission will be marked as
15 an exhibit, and will form part of the record of the
16 Inquiry.

17 I wonder, when we break off
18 at noon, if you would speak to Mr. Weick, who is an
19 Economist with the Assessment Group, and tell him about
20 the social impact studies that you referred to in Nor-
21 thern Ontario. If there is anything more you can tell
22 him about those studies, you might just pass that on
23 to him.

24 (BRIEF - JOE MERCREDI - SMALL BUSINESSMEN AND THE
25 EMPLOYED NATIVES OF THE FORT SIMPSON REGION, MARKED
26 EXHIBIT NO. 31.)

27 THE COMMISSIONER: Now, Mr.
28 Belcourt.

29 MR. BELCOURT: Mr. Commis-
30 sioner, first let me open my brief remarks by congratu-

1 lating you on your efforts to ensure that the Native
2 people have an opportunity to give you their views in
3 this preliminary stage of your Inquiry. Many of us know
4 of your background and of the special interest you have
5 always shown in the Native People of Canada. We are
6 confident that you will continue to deal with us with
7 fairness and integrity, as well as give full considera-
8 tion to all interested groups.

9 It is not my intention to
10 repeat the details that have already been provided to
11 you by the Native people of the Yukon, the Northwest
12 Territories, and by the International Natives north of
13 60 group.

14 I merely want to say at
15 this point that the Native Council of Canada, represent-
16 ing as it does, some 500,000 Canadians of Native ances-
17 try, supports the proposals you have already received
18 from these other Native organizations and most important,
19 supports the principle that these Native people have the
20 right, not only to speak out, but also to be listened to.
21 It is not enough for the Native people to have a voice
22 if that voice is not heard.

23 I believe that the crux of
24 this whole issue is to be found in the diametrically
25 opposed concepts your society, on the one hand, and
26 the Native people on the other, hold in regard to land
27 ownership. The issue at these hearings focuses on the
28 Mackenzie Valley Pipeline, but the principle that we
29 espouse is at the root of the current confrontation be-
30 tween you and us in James Bay, over the Churchill River

1 development in Manitoba, and in the land dispute in
2 British Columbia. Indeed it is the heart of the matter
3 throughout the world wherever Native peoples find their
4 land and their way of life in jeopardy as a result of
5 intrusions and penetrations from the outside.

6 Your society likes to talk
7 in terms of ownership of the land and so does ours, but
8 the concepts underlying the phrase "land ownership" are
9 as different as night and day.

10 We don't pretend to own the
11 land in the sense of private possession, giving us the
12 right to exclusive use, to build fences, and to put up
13 "No Trespassing" signs. We do not believe now and we
14 never have believed that we hold "title in fee simple".
15 In consequence, we don't feel that we have the right to
16 do whatever we want with the lands we occupy now and
17 that our ancestors have occupied in the past. Your
18 society might believe in that kind of system. We don't.

19 We do believe, however, that
20 as prior occupants, who inherited the land from our great-
21 great-grandfathers, that we have the right to use it and
22 pass on those rights to our great-great-grandchildren.
23 We see ourselves merely as the guardians of the terri-
24 tory which we hold in trust for the generations that will
25 follow.

26 We believe we have special
27 rights to the use of this land which you do not. We
28 also believe we have a special duty to protect it from
29 all those whose sense of the past and whose commitment
30 to the future is not nearly as great as ours.

1 We cannot sell the land or
2 any part of it to you because we do not "own" it. In
3 the interests of economic and human development for our
4 generation and for the next, we are prepared to look at
5 any offer that may be made to compensate us for the
6 restrictions that will be placed on us in the wake of
7 essential development of the land and its resources.

8 We are prepared to be total-
9 ly reasonable in any joint negotiations. We are not,
10 however, prepared for any price to allow your society to
11 do the kinds of things to our part of Canada that you
12 have done elsewhere.

13 You are not going to turn the
14 Mackenzie River into an open sewer. You are not going
15 to turn our fresh water into Lakes Erie and Superior.
16 You are not going to poison our air as you have done in
17 Trail, Flin Flon and Sudbury.

18 There may be room for those
19 kinds of things in your definition of the quality of
20 life, but there is none in ours.

21 It is a source of some
22 optimism to us to discover that other groups in the
23 dominant society are starting to espouse these kinds of
24 views which we have held since time immemorial.

25 Having said that, I wish now,
26 on behalf of the Native Council of Canada, to make some
27 suggestions to you about these hearings.

- 28 1. We believe that you should not be stampeded
29 into an early conclusion of this phase of the
30 Inquiry. We think that the people of the Terri-

1 tories need an opportunity to study and dis-
2 cuss the real issue that is at stake.

3 This may take a little time.

4 2. We think that adequate funding should be
5 arranged for Native groups and Environmental
6 groups to allow them the chance to examine and
7 debate the issues before attempting to work
8 out a consensus.

9 3. We ask you, Mr. Commissioner, to use your
10 office to bring about direct access on the
11 part of our groups to information already in
12 the hands of government and industry that has
13 a direct bearing on their plans and our lives.

14 4. We believe our people should have the oppor-
15 tunity at these hearings to question civil
16 servants and other experts on the statements
17 they are making to ensure we understand what
18 it is they are saying.

19 5. We recommend that much more work be done by
20 the government and by industry on the social
21 and economic impact of the proposed pipeline.

22 6. We believe that your hearings should be taken
23 to all settlements in the Mackenzie Basin and
24 to Old Crow in the Yukon to give those people
25 who live there and whose ancestors lived
26 there, an opportunity to speak direct to you.
27 Other settlements and other groups may well
28 feel that they can get their points across
29 through sessions with your Inquiry officers,
30 but unless you make yourself available to the

1 people in these smaller settlements, their
2 input will be less than complete.

3 We are prepared to co-
4 operate with you, Mr. Commissioner, in a total way in
5 our mutual goal of resolving this confrontation in an
6 equitable and just manner.

7 We would hope you would
8 keep in mind, however, that we are speaking, not only
9 out of self-interest for the people who occupy the land
10 here and now, but also for those who will be here long
11 after our great grandchildren have passed on. In these
12 efforts we are even prepared to protect the dominant
13 society from itself.

14 Thank you.

15 THE COMMISSIONER: Thank you,
16 Mr. Belcourt.

17 Mr. Belcourt's submission
18 on behalf of the Native Council of Canada, Metis and
19 Non-Status Indians, will be marked as an exhibit and
20 form part of the record.

21 (BRIEF - A.E. BELCOURT - NATIVE COUNCIL OF CANADA
22 (Metis and Non-Status Indians), MARKED EXHIBIT NO. 32.)

23 Well, we will adjourn then
24 until 2:15, and then we will hear from Mr. Lucas and
25 others on the specific procedural questions.

26 (PROCEEDINGS ADJOURNED UNTIL 2:15 P.M.)

27 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

28 THE COMMISSIONER: Well, we
29 will come to order this afternoon and Mr. Lucas, if you
30 would -- if you are ready now to let the Inquiry have

1 your submission on these questions of procedure that
2 have been raised.

3 MR. LUCAS: Thank you, Mr.
4 Commissioner.

5 I will be making a submis-
6 sion on behalf of the Canadian Arctic Resources Commit-
7 tee and it will supplement the submission that the
8 Canadian Arctic Resources Committee has already made
9 at the Yellowknife hearing.

10 I will be speaking from
11 notes as well, and will not therefore be filing a
12 written argument with the Commission.

13 My presentation will break
14 down into three parts. The first part will deal with
15 interpretation of the Commission terms of reference
16 under order-in-council P.C. 1974-641 and the 1972
17 Expanded Guidelines for Northern Pipelines.

18 In that section the general
19 questions of interpretation of the order-in-council and
20 the Guidelines will be addressed. In the remaining
21 two sections, the items that were summarized yesterday
22 will be dealt with specifically in terms of the inter-
23 pretation that will be suggested in the first section.

24 So, with regard then to the
25 interpretation of the Commission terms of reference,
26 first of all, with regard to the scope and object of the
27 Inquiry.

28 CARC'S submission is that
29 the scope of the Inquiry under the order-in-council and
30 the Expanded Pipeline Guidelines extends to the develop-

1 ment and recommendation of right-of-way terms and condi-
2 tions for any Mackenzie Valley pipeline that may be pro-
3 posed by any applicant.

4 We are suggesting then that
5 the terms of reference, as set out in the order-in-
6 council and the Expanded Pipeline Guidelines, should not
7 be limited to the specific terms of the Canadian Arctic
8 Gas application.

9 The order-in-council refers
10 to pipeline proposals, and I quote:

11 "In respect of which it is contemplated that
12 authority might be sought pursuant to paragraph
13 19(f) of the Territorial Lands Act for the acquisi-
14 tion of a right-of-way."

15 The order-in-council further
16 states that:

17 "It is desirable that" --

18 And I emphasize --

19 "-- any such right-of-way that might be granted
20 be subject to such terms and conditions as are
21 appropriate."

22 The Commission is then direc-
23 ted under the order-in-council to:

24 "Enquire into and report upon the terms and condi-
25 tions that should be imposed in respect of --"

26 And I emphasize the remainder of this sentence.

27 "-- any right-of-way that might be granted."

28 Nowhere in the order-in-
29 council is specific reference made to this particular
30 application, that is the application by Canadian Arctic

1 Gas. Therefore, it is CARC's submission that under the
2 order-in-council, the scope of the Commission's Inquiry
3 is not limited to the terms of the particular applica-
4 tion by Arctic Gas.

5 The Commission, we would
6 submit, must consider appropriate terms and conditions
7 for any right-of-way granted, having regard, if neces-
8 sary, to matters that are not strictly raised by the
9 Canadian Arctic Gas application.

10 This interpretation of the
11 scope of the Commission's Inquiry has also im-
12 plications for the form of the order or decision that
13 would be appropriate for the Commission to make, and I
14 will deal with that specifically later.

15 The second point under the
16 first section, namely interpretation, is that matters
17 that may be inquired into by the Commission, under
18 Clauses (a) and (b) of the order-in-council, and I will
19 deal specifically with matters that we feel those
20 clauses of the order-in-council extend to.

21 First of all, the Commission
22 is directed to, and I quote:

23 "Enquire into and report upon the terms and condi-
24 tions that may be imposed in respect of any right-
25 of-way that might be granted across Crown lands
26 for the purposes of the proposed Mackenzie Valley
27 Pipeline."

28 Now, we would suggest that
29 those are the operative words. Those are the words that
30 give the Commission its essential powers.

1 And that sentence continues
2 with these words:

3 "Having regard to" --
4 and then there follows the two paragraphs (a) and (b)
5 on the top of page 2 of the order-in-council.

6 The phrase "having regard
7 to", and the fact that paragraphs (a) and (b) are then
8 enumerated thereafter suggests that the Commission is
9 simply directed by the order-in-council to the matters
10 referred to in these paragraphs as a matter of guidance
11 in its general task of enquiring into and reporting
12 upon right-of-way terms and conditions that should be
13 imposed in respect of any application.

14 And the point to be emphas-
15 ized is that paragraphs (a) and (b) should simply be
16 regarded as guidelines for the Commission in its general
17 task of enquiring into terms and conditions that might
18 be appropriate to any right-of-way granted.

19 Paragraph (b) incorporates
20 the 1972 Expanded Guidelines. It does not, we would
21 submit, limit or in any way define restrictively the
22 matters referred to in paragraph (a).

23 Paragraph (a) is wider in
24 scope, we would suggest, than Paragraph (b). In parti-
25 cular, for example, reference is made specifically in
26 paragraph (a) to economic impact regionally of the
27 construction, operation and subsequent abandonment of
28 the proposed pipeline.

29 The Expanded Guidelines in-
30 corporated by paragraph (b) deal only with environmental

1 and social concerns, and do not extend to economic con-
2 siderations.

3 We would suggest, therefore,
4 that there is method in the order of enumeration, that
5 is, there is method in the order of paragraphs (a) and
6 (b).

7 (a) is the general paragraph
8 and (b) is simply intended for greater certainty to
9 ensure that the specific environmental and social con-
10 cerns set out in the Expanded Pipeline Guidelines are
11 considered by the Commission.

12 Further indication that
13 paragraph (b) does not restrict the matters referred to
14 in paragraph (a) is the fact that the two paragraphs
15 are linked by the word "and" which we submit in this
16 context is used disjunctively. If the more specific
17 concerns expressed in the Guidelines and incorporated
18 in paragraph (b) had been intended to limit or qualify
19 the more general matters referred to in paragraph (a),
20 a more appropriate form of words would have been used
21 to link the two paragraphs. For example, a more appro-
22 priate form would have been paragraph (a) and rather
23 than the word "and", perhaps the words "having regard to"
24 and then setting out paragraph (b).

25 So, we would suggest that
26 paragraph (b) in no way restricts the scope of inquiry
27 permitted by paragraph (a).

28 The final point here is also
29 related to paragraph (b).

30 Now, we would submit that

1 while paragraph (b) does not restrict the scope of
2 inquiry under paragraph (a), nevertheless, the Commis-
3 sion is required to enquire into the environmental and
4 social concerns set out in the Expanded Guidelines,
5 and incorporated by paragraph (b).

6 Paragraph (b) reads:

7 "Any proposals to meet the specific environmental
8 and social concerns set out in the Expanded Guide-
9 lines."

10 And we attach some significance to the word "specific"
11 and suggest that it was used with the intention of
12 ensuring that those concerns were in fact raised by the
13 applicant, or rather, by any applicant for a right-of-
14 way, and considered by the Commission.

15 Mr. Goldie, in putting for-
16 ward his interpretation of the order-in-council and the
17 Expanded Guidelines placed great emphasis on the term
18 "regionally" as it appears in paragraph (a) of the
19 order-in-council, and our submission is that he is quite
20 right in suggesting that significance should be attached
21 to the term "regional", and that the Commission is con-
22 cerned with "regional impacts of a proposed pipeline",
23 as opposed to "national impacts".

24 However, we would also sub-
25 mit that it is impossible to draw a rigid distinction
26 between regional and national concerns, and regional
27 and national impacts.

28 National considerations
29 necessarily affect a region, simply because a region is
30 a part of the whole. A region is a part of a whole by

1 definition.

2 Mr. Goldie, in his submis-
3 sion, seemed almost to ignore the fact that the Yukon
4 and the Northwest Territories are part of the nation
5 we know as Canada.

6 So, our submission is that
7 it is impossible to draw a rigid and clear line between
8 regional consideration and national consideration for
9 the purpose of the Inquiry of this Commission.

10 Mr. Goldie also submitted
11 that a number of the matters that will be raised speci-
12 fically in Sections 2 and 3 of my submission, are pro-
13 perly within the jurisdiction of the National Energy
14 Board, and that material in regard to those matters will
15 be filed by the applicant with the National Energy Board.

16 Our submission is that it is
17 impossible to draw a hard and fast distinction between
18 those matters properly to be considered by this Commis-
19 sion and those matters properly within the jurisdiction
20 of the National Energy Board.

21 We recognize that many of
22 these matters are properly within the jurisdiction of
23 the Energy Board and will be considered there, and that
24 overlap between the Inquiry of this Commission and that
25 of the Energy Board should be minimized.

26 However, we suggest that it
27 simply has to be recognized that there will be some over-
28 lap; especially it must be recognized that there are
29 issues that will and must be considered, both by this
30 Commission and by the Energy Board, but from different

1 perspectives, and on the basis of different assumptions.
2 The national and regional economic issues are perhaps a
3 good example, that is, regional economic issues are
4 affected by national economic issues, as I will elabor-
5 ate on in a moment, and are therefore regional matters
6 properly within the scope of this Commission's Inquiry.

7 At the same time, those
8 national economic matters are properly within the juris-
9 diction of the National Energy Board. What this means,
10 we submit, is simply that similar evidence is going to
11 be required on many of these matters, both before this
12 Commission and before the National Energy Board, although
13 for different purposes.

14 We are saying, in other
15 words, that evidence submitted by Canadian Arctic Gas
16 will in many cases be the same or similar here and be-
17 fore the National Energy Board, but it will be consi-
18 dered for different purposes by the Commission and by the
19 Energy Board.

20 These principles, namely,
21 the distinction -- the impossibility of drawing a hard
22 and fast distinction between regional and national con-
23 cerns, and the impossibility of drawing a hard and fast
24 distinction between matters properly for this Commis-
25 sion, and matters properly for the Energy Board, will be
26 elaborated in the consideration of particular matters in
27 Sections 2 and 3 of my submission.

28 So, with that in mind, and
29 in light of the interpretation that I suggested for the
30 order-in-council and the Expanded Pipeline Guidelines, I

1 will proceed to Section 2 which deals with additional
2 matter that we submit must be filed by the applicant
3 before this Commission.

4 Now, this material, as I
5 indicated yesterday, is described in Schedule 1 to the
6 applicant's application to the National Energy Board.
7 There are six documents involved and I will go through
8 them in order.

9 First of all, Section 1,
10 that is, Section 1 in the Schedule to the Applicant's
11 NEB application, Gas Supply Under Contract.

12 Now, our submission is --

13 THE COMMISSIONER: Excuse me,
14 I don't have the application by Arctic Gas to the
15 National Energy Board because, of course, the application
16 that was sent to me is the application by Arctic Gas to
17 the Minister of Indian Affairs and Northern Development.
18 Before/^{you}proceed, I just wondered if you could let me have
19 a copy of that application.

20 MR. LUCAS: That schedule
21 is referred to, Mr. Commissioner, simply for purposes
22 of convenience.

23 With regard then to Gas
24 Supply Under Contract, our submission is that this
25 material is relevant to the social and economic impact
26 regionally of the construction and, we would emphasize,
27 operation within paragraph (a) of the order-in-council
28 of a proposed pipeline.

29 And this material is relevant
30 particularly in terms of regional impact, because it will

1 disclose, or is likely to disclose, details of the
2 quality of natural gas produced in northern fields and
3 prices to be charged for the natural gas.

4 Now, implicit in these de-
5 tails are the amounts of economic rent to be reaped
6 from the sale of the natural gas. Perhaps -- economic
7 rent can be explained very briefly.

8 Essentially, and the defini-
9 tion I am going to quote, is found in the Report issued
10 in 1973 by the Department of Energy, Mines and Resources
11 entitled "An Energy Policy for Canada" at page 142.

12 "Economic rent" is defined there as the difference be-
13 tween gross oil and gas selling prices and total produc-
14 tion costs allowing -- including an allowance for return
15 of investment.

16 So, essentially, it is the
17 gross selling price of the gas less cost of production
18 and less a reasonable profit to the producer.

19 Now, that residue can be
20 captured by the state in which the gas is produced in a
21 number of ways, the usual ways being through taxation
22 and royalty requirements.

23 The philosophy behind this
24 concept of "economic rent" is perhaps important. And it
25 is that the resources, the gas resources being exploited
26 are regarded as Nature's gift to Canada, simply because
27 they have been placed here as opposed to any other coun-
28 try. And once the companies involved in producing the
29 resource have been adequately compensated for taking the
30 risks involved in exploiting the resource, the remaining

1 profit should belong to Canadians, and Canadians in this
2 context we would suggest include particularly residents
3 of the Yukon and the Northwest Territories.

4 Now, this economic rent, as
5 I have already mentioned, can be recovered through royal-
6 ties and taxes. And having been so recovered, it can
7 be used to offset, for example, the cost of providing a
8 full scale of social services in the Territories, and
9 social services, moreover, that are related in one way
10 and another to the proposed pipeline development, and
11 in that sense are extremely relevant to consideration of
12 regional social and economic impacts.

13 Now, in saying this, we are
14 assuming that the royalty regulations under the Canada
15 Oil and Gas Land Regulations are relevant so far as
16 royalties are concerned.

17 Now, at the moment, these
18 royalties go into the Federal Treasury. We are assuming
19 further, however, that some provision is likely to be
20 established whereby these monies can be channelled back
21 into the Territories and used, for example, as I have
22 suggested, for the purpose of providing social services
23 and other amenities for the Territories, just as would
24 be done were this natural gas located and produced with-
25 in a Province of Canada as opposed to the Yukon and the
26 Northwest Territories.

27 So, in these ways we would
28 suggest that the material likely to be found in the
29 Report entitled "Gas Supply Under Contract" is relevant
30 to this Inquiry in a practical sense, and is also rele-

1 vant in terms of Clause (a) of the order-in-council.

2 Now, going on to the second
3 point --

4 THE COMMISSIONER: May I
5 just interrupt you for a moment.

6 There is two questions
7 rolled up in what you say, it seems to me, and I am
8 only saying this now so that when Mr. Goldie replies,
9 as it is conceivable he may wish to do, he can consider
10 both of these questions, and perhaps you can yourself,
11 and anybody else.

12 You are saying that in due
13 course the submission might be made that a percentage
14 of the gross income, or the profit of this pipeline,
15 should be dedicated to providing social services in the
16 two Northern Territories.

17 Now, that's an argument that
18 somebody might want to make in due course. It may be
19 within my terms of reference, it may not be. It may be
20 a good argument and it may be unsound. But you are
21 linking that to the question of the supply and quality
22 of natural gas in the Mackenzie Delta and the Beaufort
23 Sea, as I understand it.

24 If that first issue was one
25 that fell within my terms of reference, is it one that
26 you would argue could not be dealt with in isolation but
27 would have to be dealt with according to some kind of
28 projected revenue or profit picture arising from the
29 exploitation of the gas?

30 MR. LUCAS: That would be one

1 way of dealing with it.

2 THE COMMISSIONER: Well,
3 suppose the -- you are saying then that
4 you would tie this to revenue or profits in some way
5 that isn't entirely clear. I only mention it because
6 the quality of social services might then be dependent
7 on the revenue derived from that gas line and the --
8 or the profits, and it might make for an uneven level
9 of social services. I just don't know. You are rais-
10 ing these new matters, so I am throwing out some things
11 that occur to me that you may wish to deal with. I
12 don't say you have to deal with them now but you might
13 take it into account.

14 MR. LUCAS: Yes, thank you.
15 Just by way of clarifica-
16 tion, the details as to the quality of the gas and the
17 price goes to determining the amount of this "economic
18 rent" -- the amount of economic rent that is available.

19 Now, what I am really get-
20 ting at is quite simply the fact that one day the Yukon
21 and the Northwest Territories are likely to become
22 provinces, and if they become provinces, it is very
23 likely that this economic rent will be channelled into
24 provincial treasuries and applied for the purpose of
25 social services, among other things, and this is some-
26 thing that certainly should be considered. And the
27 amount of these rents is certainly relevant to that
28 consideration, and for that reason this particular
29 document, we would submit, is necessary and must be
30 produced before this Inquiry.

1 Now, my second point is re-
2 lated to the first, and I will not dwell on it. The
3 second relates to Section 3, Gas Sale Contracts, and
4 here the relevant consideration is the price of the
5 natural gas again but for a slightly different reason.
6 And here the concern is the quantity of economic rent
7 in the form of transportation costs that are likely to
8 be channelled into the Territories, and that would be
9 included in these prices. So we are looking here at
10 the particular component of these economic rents that
11 would be reflected in transportation costs accruing to,
12 that is transportation payments that accrue to persons
13 and corporations in the Yukon and the Northwest Terri-
14 tories.

15 And again we would suggest
16 that this is relevant to a consideration of the social
17 and economic impact regionally of the construction and
18 operation of the proposed pipeline within paragraph (a)
19 of the order-in-council.

20 THE COMMISSIONER: I am
21 sorry, would you repeat that point. I must be a little
22 slow.

23 MR. LUCAS: The "economic
24 rent" produced by the production of the resource can be
25 recaptured by the state, as I mentioned, in a number of
26 ways.

27 THE COMMISSIONER: Yes.

28 MR. LUCAS: Taxes and royal-
29 ties.

30 THE COMMISSIONER: Yes.

1 MR. LUCAS: But in addition,
2 in addition, there will also be economic rent captured
3 through payments involved in the production of the
4 resources that accrue to Canadians. And in the case of
5 gas sale contracts, one of the --

6 THE COMMISSIONER: Excuse
7 me, you are speaking of export of gas, are you?

8 MR. LUCAS: Yes.

9 THE COMMISSIONER: I see.

10 MR. LUCAS: And what we
11 are talking about here is items in the cost of transpor-
12 tation of the gas that will be reflected in payments to
13 Canadians in general but residents of the Territories in
14 particular. And this is simply another element of the
15 economic rent, other elements in terms of recap-
16 ture, being royalties and taxes. And we would suggest
17 that this information is relevant to determining trans-
18 portation costs and therefore getting at the size of
19 this segment of recapture of economic rent, you see.

20 THE COMMISSIONER: Yes, I
21 follow you.

22 MR. LUCAS: Item 3 is the
23 document entitled "Market Projections", and this is Sec-
24 tion 2 in the Schedule.

25 Now, our submission is that
26 the data likely to be found in this document are parti-
27 cularly significant for the assessment of environmental
28 impact of the proposed pipeline.

29 Market projections are neces-
30 sary to estimate the period of time over which the pro-

1 posed pipeline will be operated, and consequently to
2 obtain some indication as to when and how often looping
3 of the line may be required, for example, and when and
4 how often, to take another example, additional compres-
5 sor stations must be constructed. And these activities
6 quite clearly, we would suggest, are likely to have
7 significant environmental impact regionally, and are
8 matters therefore clearly within the scope of paragraph
9 (a) of the order-in-council.

10 Item 4 is Section 4, Gas
11 Supply Areas.

12 Now, this section is likely
13 to contain material on location, size, et cetera, of
14 gathering lines, through which gas will be delivered to
15 the proposed pipeline from producing fields. Fields in
16 the Mackenzie Delta, especially in the Tuktoyaktuk area,
17 and activity in the Beaufort Sea is located in what may
18 be among the most environmentally sensitive areas in the
19 Territories. And consequently, it is our submission
20 that information as to gathering lines are necessary to
21 fully assess the environmental impact of the line pro-
22 posed by the applicant, and to ensure that the gathering
23 lines are best located environmentally as well as in rela-
24 tion to the supply, that is, as well as in relation to the
25 fields.

26 The applicant -- I am sorry.
27 And consequently, it is our submission that this mater-
28 ial is relevant and within the scope of the Inquiry
29 under paragraph (a) of the order-in-council.

30 Item 5 is Section 10, "Cost

1 of Facilities."

2 Now, information in this
3 section is required to determine how much of facilities
4 cost is likely to occur as purchases of local goods and
5 services along the proposed pipeline route and in the
6 territories generally, and this is quite obviously an
7 important factor in the assessment regionally of social
8 and economic impact, and consequently is a matter within
9 the terms of Clause (a) of the order-in-council.

10 Item 6 is Section 14 (b)
11 entitled "Impact of the Applicant's Proposal on the
12 Canadian Economy."

13 And here we come to the
14 point that was made earlier, namely, that a rigid dis-
15 tinction cannot be drawn between considerations of
16 national economy, and considerations related to the
17 regional economy.

18 We must recognize the rele-
19 vance of the information likely to be contained in this
20 document for the impact of national economic activity
21 on the regional economy of the Yukon and the Northwest
22 Territories.

23 Financing, construction and
24 operation of the proposed pipeline is likely to affect
25 national economic indicators such as Capital Markets,
26 the Foreign Exchange Rate, and especially, we would sug-
27 gest, the rate of inflation. And only after considera-
28 tion is given to the nature of the current national
29 economic situation, factors such as the availability of
30 capital, the capacity generally at which the economy is

1 functioning, the effect of pipeline activity on the
2 national economy; only after these matters are consider-
3 ed can assessment reasonably be made of the inter-
4 relation between the Territorial economy and the
5 National economy. We are saying that economic effects
6 regionally simply cannot be sensibly assessed without
7 putting them in the overall context of the national
8 economy, having regard to matters particularly such as
9 inflation, capital, markets.

10 Now, just to drive this home,
11 increased prices, as a result, for example, of the pro-
12 posed pipeline activity, nationally, and regionally,
13 would reduce the short run and the long term real
14 economic benefits of the increased employment oppor-
15 tunity which the applicant has already spoken to that
16 will be provided in the region. A tightening of capital
17 markets nationally would affect the availability of
18 capital for local and regional economic activities, to
19 the extent that the region is dependent on national
20 capital markets. As well, construction and generally
21 activities related to social services would be affected
22 regionally.

23 Furthermore, an increase in
24 the value of the Canadian dollar on Foreign Exchange
25 Markets could have very significant particular adverse
26 effects on regional economic activities in the Territor-
27 ies and in particular, for example, on the export of
28 goods such as fish, fur and minerals produced in the
29 Territories.

30 And so we would suggest that

1 for this reason, for these reasons, this material rela-
2 ted to impact of the applicant's proposal on the Canad-
3 ian economy is essential to the full and complete assess-
4 ment of economic impact of the proposal on the region.

5 And we would further submit
6 that this Inquiry is within the terms of paragraph (a)
7 of the order-in-council, that is the regional social
8 and economic impact of construction and operation of
9 the proposed pipeline.

10 So, to sum up to this point,
11 CARC would submit, for the reasons given, that those
12 six documents are necessary for the Inquiry to be conduc-
13 ted by this Commission and the applicant ought to pro-
14 duce them for consideration by the Commission and they
15 should be made available to all parties to these hear-
16 ings.

17 Now, section 3 deals with
18 several matters related to the scope of the Inquiry.
19 And these matters will be considered, as I have already
20 mentioned, in terms of the interpretation already sugges-
21 ted for the Commission terms of reference under the
22 order-in-council and the Expanded Pipeline Guidelines.

23 The first matter is alterna-
24 tive systems of transportation for the natural gas.

25 Now, the applicant's posi-
26 tion on this, as it was first stated at the Whitehorse
27 hearing, and as it was re-stated here by Mr. Goldie,
28 is that this part of the application is properly within
29 the jurisdiction of the National Energy Board.

30 CARC submits that, first of

1 all, this simply is illogical. Corridor implications
2 are involved, and Corridor -- and the consequence
3 regional, social, environmental and economic considera-
4 tions of alternative modes of transportation are of
5 major importance in the Territories, and that the Com-
6 mission ought to undertake a full consideration of the
7 impacts of alternative systems of transportation, inclu-
8 ding alternative pipeline routes.

9 I understand that there
10 is no argument on the latter, that is, alternative
11 pipeline routes.

12 MR. GOLDIE: No argu-
13 ment on what?

14 MR. LUCAS: On whether or
15 not the subject of alternative pipeline routes is pro-
16 perly within the scope of this Commission's Inquiry.

17 MR. GOLDIE: Alternative
18 routes for this pipeline.

19 THE COMMISSIONER: Well, I
20 think we will cut off that dialogue, and you can carry
21 on. It got about as far as it was likely to get.

22 MR. LUCAS: The Inquiry into
23 these matters, we would submit, is within the terms of
24 reference of the Commission. The 1972 Expanded Pipe-
25 line Guidelines at page 3 refer to, and I quote:

26 "Design of a transportation Corridor that might
27 also include in the long run not only trunk pipe-
28 lines, but also a highway, a railroad, electric
29 power transmission lines, tele-communication facil-
30 ities, etc."

1 Now, this is in the context
2 of an invitation for comments and suggestions with re-
3 spect to the design of a transportation Corridor.

4 We would also submit that
5 consideration of alternative modes of transportation
6 is implicit in the Corridor concept itself, as estab-
7 lished in Guidelines 1 and 2 on pages 9 and 10, and
8 that it is also implicit in the terms of paragraph(a)
9 of the order-in-council. And the reason it is implicit,
10 we would suggest, is that assessment -- is that consid-
11 eration of alternative modes of transportation is essen-
12 tial as a basis for comparison in assessing regional,
13 social, environmental and economic impacts of the pro-
14 posed pipeline, and determining appropriate right-of-
15 way conditions.

16 What we are saying is that
17 it is not possible to sensibly assess, for example,
18 social impact of a proposed pipeline and its accompany-
19 ing road without adopting as a basis for comparison
20 alternative scenarios that are implicit in alternative
21 modes of transportation that would, for example, not
22 involve a highway, a railway, for example, and to con-
23 sider the social impact of the proposed pipeline on a
24 particular community in terms of what the situation is
25 likely to be if a pipeline were not constructed, but if
26 some other alternative method were used to transport
27 the gas resources to Southern markets.

28 We would suggest, therefore,
29 that consideration of these alternative modes is im-
30 plicit in paragraph (a) and is necessary for a full,

1 complete and sensible assessment of regional, social,
2 environmental and economic impacts.

3 Now, we are not saying that
4 the consequence of this submission is that the appli-
5 cant must submit numerous fully documented applications
6 with regard to a railway, a liquid natural gas pipeline,
7 air transportation modes, and so on. We are simply
8 submitting that the applicant must provide sufficient
9 evidence in order to provide a basis for comparison of
10 these alternative modes of transportation with the pipe-
11 line mode that is the subject of the application.

12 THE COMMISSIONER: Let me
13 interrupt you for a moment.

14 I see your point, and it may
15 be that it is sound, but in the final analysis, as you
16 yourself said, I am to make recommendations upon the
17 terms and conditions that should be imposed in respect
18 of any right-of-way that might be granted for the pur-
19 poses of the proposed Mackenzie Valley Pipeline.

20 Now, you say that I should
21 undertake an examination of the economic social and
22 environmental impact of a railway, for example, as com-
23 pared to a natural gas pipeline up the Mackenzie Valley,
24 and that that examination will yield something that will
25 be useful to me in recommending terms and conditions in
26 respect of the right-of-way to be granted for a pipeline,
27 whether it is this pipeline or any pipeline.

28 Now, that is really the pro-
29 position, isn't it?

30 MR. LUCAS: Yes. In estab-

1 lishing your terms and conditions, you are essentially
2 going to be establishing standards, standards related
3 to environmental matters, standards related to social
4 matters, related to economic considerations, and it
5 might be extremely helpful, and indeed extremely rele-
6 vant, for example, to be aware of the level of environ-
7 mental degradation that is likely to accompany a rail-
8 way mode of transportation, for example, in order to be
9 in a position to determine at what level, for example,
10 your environmental standards on a pipeline ought to be
11 set, otherwise you are more less shooting in the dark,
12 we would suggest. It is in that way that this
13 material could be used, and is indeed relevant to the
14 Inquiry of this Commission.

15 Our second point relates to
16 Guideline No. 3 of the Expanded Guidelines, that is
17 found on page 10, and this is the common Corridor con-
18 cept.

19 The Guidelines now are
20 clearly incorporated into the terms of reference of the
21 Commission. The Commission is directed to enquire into
22 any proposals to meet the specific environmental and
23 social concerns set out in the Expanded Guidelines.

24 Now, Guideline No. 1 on page
25 9 of the Expanded Guidelines establishes the common
26 Corridor concept for trunk pipelines in the Mackenzie
27 Valley region and the Northern part of the Yukon Terri-
28 tory. The concept is established then by Guideline No.
29 1.

30 Guideline No. 2, again on

1 page 9, sets out the principle that trunk oil and gas
2 pipelines within the Corridors must follow routes, and
3 I quote:

4 "That are as close together as is consistent with
5 the differing engineering constraints and environ-
6 mental hazards,..but not so close together as to
7 bring about undesirable environmental interaction
8 between the two lines."

9 A requirement, then, is
10 laid down in Guideline No. 3 on page 10 that any appli-
11 cant to build the first trunk pipeline within a Corridor
12 must provide with his application the material listed
13 in paragraphs 1, 2 and 3 on pages 10 and 11. And this
14 material is specified quite particularly,

15 Paragraph 1 refers to "assess-
16 ment of the suitability of the applicant's route for
17 nearby routing of the other pipeline," the other pipeline
18 being an oil pipeline,"in terms of the environmental,
19 social and terrain-engineering consequences of the other
20 pipeline and the combined effect of the two pipelines."

21 And note that this paragraph
22 parenthetically indicates that "fully engineered pro-
23 posals concerning the other pipeline are not necessarily
24 required," but a reasonably thorough assessment of impact
25 of the other pipeline is required.

26 Paragraph No. 2 refers to
27 assessment of the environmental and social impact then
28 of both pipelines on nearby existing or proposed trans-
29 portation systems such as highways, such as railways.

30 Paragraph No. 3 refers to

1 "comparison of the applicant's proposed route with
2 alternative pipeline routes, in terms of environmental
3 and social factors as well as technical and cost con-
4 siderations." And again it is specified that fully
5 engineered proposals are not necessarily required.
6 But, information necessary, we would submit, to fully
7 and adequately assess those matters is required, and
8 is clearly required, because this Guideline uses the
9 mandatory term, the first applicant "must provide with
10 his application" the following material.

11 Now, the applicant's pro-
12 posal in the application to meet the environmental and
13 social concerns expressed in Guideline No. 3 is found
14 in Section 14(e) of the application, the volume that
15 is entitled: "Alternative Corridors and Systems of
16 Transportation at Subdivision 1.8", and this was re-
17 ferred to this morning by Mr. Goldie.

18 I would like to quote
19 a short passage from page 2 of Subdivision 1.8. The
20 application at that page states:

21 "There is also an implication depending upon how--"
22 And the reference here is to the common Corridor --
23 "-- how the concept is applied that a proposed
24 land use, which is itself acceptable for an area,
25 may be found unacceptable in that area because a
26 second use, even one which is in a tentative and
27 even uncertain status might be proposed and would
28 or might be unacceptable in that location."
29 Applied strictly, the applicant says, such concept
30 would require an applicant for any such project to

1 study fully the engineering needs and the environmental
2 and socio-economic implications of every other possible
3 future land use in the above categories as well as its
4 own to try to pick a universally acceptable Corridor.
5 The applicant submits that this is a burden which cannot
6 reasonably -- cannot be reasonably imposed or under-
7 taken, and that, in any event, the Corridor concept
8 should be regarded as one statement of general guidance
9 among others to be considered in the total context of
10 any proposed action to see if it is applicable in the
11 specific situation and to what degree.

12 The applicant's submission
13 essentially is that a requirement to provide a full
14 assessment of environmental and social impacts of an
15 oil line within the common Corridor is unreasonable,
16 and yet, we would submit, that assessment is precisely
17 what Guideline No. 3 requires.

18 Now, the applicant, in the
19 passage I have quoted, has rather over-stated the effect
20 of Guideline No. 3. There is a reference, for example,
21 to study fully the engineering needs.

22 Well, that, as I have sug-
23 gested, has been taken care of within the Guideline it-
24 self, as not necessarily required.

25 What we are submitting then
26 is, that Guideline No. 3 requires that the applicant
27 submit a much fuller assessment than is found in Subdi-
28 vision 1.8 of Section 14(e) of Social, Environmental
29 and Economic Impacts Regionally of a Gas Pipeline -- or
30 of an Oil Pipeline, rather, within the common Corridor.

1 This is clearly required,
2 we would submit, by Guideline No. 3. We would suggest,
3 however, that what is required is not a full and com-
4 plete application documented right down to engineering
5 considerations for an oil pipeline, but rather simply
6 sufficient evidence to allow the Commission to fully
7 and adequately assess the impact of an oil pipeline
8 within the Corridor in social, economic and environmen-
9 tal terms.

10 Now, we would submit fur-
11 ther that the main Commission hearings cannot begin
12 until sufficient material is filed to remedy this def-
13 iciency, and that this material should be filed with
14 the Department of Indian Affairs and Northern Develop-
15 ment, and with the Commission, and the Assessment Group,
16 and should be made available to all parties and all of
17 these interests should be given adequate time to study the
18 material.

19 Item No. 3 is one that I
20 will skip over briefly. This relates to Guideline No.
21 4, Geographic Areas of Specific Environmental and Social
22 Concern, that is Guideline No. 4 on page 11. CARC has
23 already made a submission with respect to this Guideline
24 at the Yellowknife hearings, and it has become clear, or
25 at least it is our understanding, that no such areas
26 have yet been proposed by Government.

27 However, it does appear that
28 reports containing specific recommendations for areas to
29 be set aside under this Guideline have been prepared by
30 Government scientists but remain undisclosed.

1 CARC's submission, there-
2 fore, is that consistent with paragraph (b) of the
3 order-in-council, and therefore with the Revised Guide-
4 lines No. 4, the Commission should receive evidence as
5 to geographic areas proposed under this Guideline by the
6 Government.

7 In addition, Clause (b) of
8 the order-in-council uses the term "proposals" to meet
9 the social and environmental concerns set out in the
10 Guidelines. And we emphasize the term "proposals".
11 Therefore, it is our submission that parties to these
12 proceedings may submit proposals for areas to be set
13 aside under this Guideline, and that these proposals
14 should be considered by the Commission, not in terms of
15 setting aside those areas, but in terms of establishing
16 the terms and conditions to be attached to any right-of-
17 way granted.

18 THE COMMISSIONER: You say
19 that the expression "proposals" includes proposals
20 coming from within the Government?

21 MR. LUCAS: It includes
22 proposals coming from within the Government, and it
23 appears that proposals are there and we would submit
24 that it is necessary to get at those proposals in some
25 way, and we would also submit that it is open to parties
26 to the hearings to file additional proposals, and to
27 have those considered.

28 THE COMMISSIONER: Yes, I
29 see.

30 MR. LUCAS: The fourth

1 point concerns the proposed Great Bear Lake hydro-
2 electric development.

3 Since the proposed pipeline
4 at least on the basis of the newspaper reports that we
5 have read regarding this proposed development -- as a
6 matter of fact, part of one of these reports, I believe,
7 was read into the record by Doctor Thompson at the
8 Yellowknife hearing, our understanding is that the pro-
9 posed pipeline is an essential pre-condition for this
10 proposed hydro-electric project, and that unless the
11 pipeline is built, the hydro-electric development is
12 not likely to proceed at this time.

13 Clause (b) of the order-in-
14 council which incorporates the Guidelines -- I am
15 sorry -- our submission with respect to the proposed
16 Great Bear Lake Hydro development is that it is in
17 effect a potential regional impact, that is, in itself it
18 is a potential regional impact of the pipeline proposal,
19 and with obvious social, environmental and economic
20 implications, especially in the Fort Franklin area, for
21 example, and therefore relevant to the concerns expres-
22 sed by the Chief at the hearings yesterday.

23 These impacts should be
24 assessed and considered by the Commission. And our
25 submission then is that these are impacts within Clause
26 (a) of the order-in-council that must be assessed and
27 that the development in itself should be regarded as a
28 potential impact that must be considered.

29 Now, this is consistent with
30 the interpretation that I suggested earlier for the

1 scope of the Inquiry, that is, for the order-in-council
2 and for the Guidelines in the sense that the scope of
3 the Commission Inquiry should not be limited to the
4 details of the applicant's proposal, but rather should
5 consider matters that might be relevant to establishing
6 terms and conditions appropriate to a right-of-way
7 agreement, but that may not necessarily form part of
8 the applicant's proposal.

9 We would also point out that
10 the Guidelines on page 4, at the top of the page, in
11 outlining the application of the Guidelines, refer to

12 "Associated and ancillary facilities such as roads,
13 docks, landing areas, storage areas, air strips,
14 pumping or compressor stations," et cetera.

15 And we would suggest that the hydro proposal could be
16 regarded as an associated or ancillary facility within
17 the terms of this part of the Guidelines.

18 THE COMMISSIONER: Well, so
19 far all that we know about the proposed Great Bear hydro
20 project is what Doctor Thompson read from the newspaper
21 at the Yellowknife hearing. So far as this Inquiry is
22 concerned, that is all that has been said. There has
23 been nothing else put before me. I hope there hasn't
24 been and I have overlooked it.

25 Is that right?

26 MR. LUCAS: That is correct.

27 This project is apparently
28 a government proposal and it may not be unfair to assume
29 that studies of one sort or another either exist now or
30 are in the process of preparation by Government, and

1 that this material could be made available to the Com-
2 mission, if available. Obviously we have to have re-
3 gard to the limitations of the material available, if
4 it is going to take 5 years to study, to fully and com-
5 pletely study the environmental impact of the hydro-
6 electric project proposed, we are not suggesting that
7 the Commission wait for five years.

8 THE COMMISSIONER: Yes.
9 Well, I think we will take a brief adjournment. I
10 don't want in any way to rush you. I am only asking
11 this because I am wondering whether we will have to sit
12 tomorrow morning as well to give everybody a chance to
13 participate in this discussion.

14 How much longer do you think
15 you will be? And as I say, don't feel rushed. Take
16 the time you need.

17 MR. LUCAS: I have two other
18 points that should take about fifteen minutes.

19 THE COMMISSIONER: Well, we
20 will take a brief break.

21 (PROCEEDINGS ADJOURNED.)

22 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT.)

23 THE COMMISSIONER: Carry on,
24 Mr. Lucas.

25 MR. LUCAS: I will continue
26 then with the matters relating to the scope of the
27 Inquiry.

28 Point No. 5, to carry on,
29 concerns branch lines and gathering lines, and these
30 are the connecting lines that will link the fields with

1 the trunk pipeline and the supply lines to Richards
2 Island and Parsons Lake that are the subject of the
3 gas application as such. Under this point I will also
4 deal with the gas fields themselves on the basis
5 that the fields and the gathering lines should be re-
6 garded as an integral unit.

7 Now, as far as the gather-
8 ing lines are concerned, these will be reasonably sub-
9 stantial pipelines, by any standard, feeding into the
10 48-inch trunk-line, and in fact it is likely that they
11 will be comparable in size to some existing major pipe-
12 lines in southern Canada.

13 These branch lines are an
14 integral part of the pipeline system proposed by the
15 applicant. The gas comes from the fields and it is
16 supplied to the trunk-line by the gathering system.

17 And yet, no material what-
18 ever has been filed on this subject, either before this
19 Inquiry, as my earlier point indicated, and even in the
20 National Energy Board application this material does not
21 appear, and Mr. Goldie says that this is for the pro-
22 ducers and they will be making their own applications.

23 We say that may be so, but
24 for the purpose of this Inquiry, and the objective of
25 this Commission in developing appropriate terms and
26 conditions for a right-of-way, nevertheless the location
27 and size of these lines, and of these gas fields, is
28 likely to have significant regional, social, environmen-
29 tal and economic effects within the terms, we would sub-
30 mit, of Clause (a) of the order-in-council. And this is

1 consistent with the interpretation that has been sugges-
2 ted for the order-in-council, namely, that the Inquiry
3 under it should not be confined to the details of the
4 particular application by Arctic Gas.

5 In addition, the fact that
6 this Inquiry, that is into gas fields and gathering
7 systems, is within the terms of reference of the Inquiry
8 under Clause (a) of the order-in-council, is indicated
9 by the same view that was advanced with respect to the
10 Great Bear Lake Hydro-Electric proposal, that is, these
11 gathering systems, gas fields, and indeed future gas
12 fields, will be impacts regionally of the proposed pipe-
13 line. And Clause (a) of the order-in-council requires
14 that the social, environmental and economic impacts
15 regionally of the proposed pipeline be considered, and
16 we would suggest that these subjects are impacts within
17 Clause (a) that ought to be the subject of consideration
18 by this Commission.

19 The sixth and final point
20 concerns terms and conditions to be imposed in respect
21 of the right-of-way.

22 Now, this is essentially
23 the subject that Mr. Goldie addressed under the heading
24 "Form of Order or Recommendation".

25 There are two branches here.
26 First of all, the interpretation that has been sugges-
27 ted for the order-in-council and the Guidelines, namely,
28 that it is not limited, namely, that the terms of refer-
29 ence of the Commission are not limited to the terms of
30 Canadian Arctic Gas Pipeline application. The conse-

1 quence is that the sort of recommendation that is most
2 appropriate for this Commission to make is a set of
3 terms and conditions that incorporate social, environ-
4 mental and economic standards that could be applied to
5 any pipeline proposal.

6 And one form that such an
7 order could take would be a sort of model right-of-way
8 agreement that gets right down to the details and speci-
9 fies terms and conditions, and there may be alternative
10 terms and conditions specified with respect to certain
11 matters. But, we would suggest that that type of
12 recommendation would be most appropriate, and that the
13 recommendation should involve that degree of detail.

14 The second point here is
15 that the recommendation made should not simply be limi-
16 ted to terms and conditions to be imposed in the right-
17 of-way agreement, but should consider, and indeed,
18 should relate also to criteria and methodology for
19 monitoring the implementation of the terms and condi-
20 tions recommended for the right-of-way agreement.

21 Now, we would suggest that
22 this is an important consideration, and indeed, could go
23 to the effectiveness simply of any terms and conditions
24 that may be recommended.

25 And, consequently, this
26 aspect must be addressed specifically in the Commission
27 recommendations.

28 That this is a serious con-
29 cern is illustrated by the fact that in the case of the
30 Alyeska Pipeline, a private consultant has been engaged

1 to develop criteria and to supervise implementation of
2 the orders made by the relevant regulatory agencies in
3 the United States with respect to that line. It was
4 thought necessary, and this is -- we would like to
5 point this out in particular -- it was thought necessary
6 in that case to engage a private consultant, that is,
7 apart from the industry, the applicant constructing the
8 pipeline, and the regulatory agencies themselves to
9 supervise the implementation of the regulatory orders.

10 And our submission is that
11 this aspect should be addressed, by the Commission in
12 its ultimate recommendations.

13 Now, one final point with
14 regard to the subject of delay that was raised by Mr.
15 Goldie.

16 First: Mr. Goldie said that
17 delay would prejudice the applicant and would prejudice
18 the people of Canada.

19 THE COMMISSIONER: Excuse me
20 a minute. Sorry, Mr. Lucas, go ahead.

21 MR. LUCAS: The applicant
22 says that delay in these hearings and consequent delay
23 in any recommendations to be made by this Commission
24 would prejudice the applicant and would prejudice the
25 people of Canada. And he referred to such things as
26 the public interest, Canadian energy needs, the need for
27 low cost gas.

28 Unfortunately, all of these
29 things are simply assumptions. All of these items
30 simply involve begging the very question that has to be

1 determined by this Commission in its recommendations,
2 by the National Energy Board through its recommendations,
3 and ultimately by the Governor-in-Council.

4 And these questions of
5 energy needs, public interest, these are unknown ques-
6 tions, and yet Mr. Goldie suggests that these are rea-
7 sons why delay would prejudice the applicant. These
8 are the very matters to be determined by this Commission
9 and by the regulatory process of the National Energy
10 Board.

11 And there is a bit of a
12 contradiction as well, in that Mr. Goldie talks about
13 the public interest in the context of this hearing to-
14 day, while at the same time saying that that is not a
15 matter for this Commission at all, but rather a matter
16 for the National Energy Board, and solely within the
17 jurisdiction of the National Energy Board.

18 He also says that the pipe-
19 line is in the national interest and therefore delay
20 would prejudice the people of Canada. And yet he has
21 said today that national concerns are not to be enter-
22 tained by this Commission, even it would appear in terms
23 of considering regional economic, social and environmen-
24 tal impacts. And that sounds rather contradictory,
25 in our view.

26 The second point under delay
27 relates to a proposition that was advanced first by
28 Doctor Thompson on CARC's behalf in Yellowknife. And
29 this is the need, the essential need, for independent
30 third party review of the environmental, social and

1 economic components of the Gas Arctic application, and
2 in particular, of the material filed in support.
3 Otherwise, as Doctor Thompson properly pointed out at
4 Yellowknife, the only assessment and review would be
5 conducted by Government through the Assessment Group
6 and by industry through the applicant's own material
7 filed in support of his application.

8 We have suggested that this
9 third party review is essential for the success of a
10 Commission of this kind, in inquiring into this matter
11 and determining appropriate terms and conditions to be
12 attached to the right-of-way agreement.

13 In this regard CARC has
14 already pointed out that time is required to properly
15 provide this third party review and assessment of the
16 application. I would just refer to the statements
17 made by Doctor Beakhust and Mr. Vincent at the Yellow-
18 knife hearing and by Doctor Pimlott at the Yellowknife
19 and Inuvik hearings. The net result is that such
20 an assessment could not reasonably be carried out ade-
21 quately unless the hearings do not begin until at least
22 early 1975, and that point again was made at the Yellow-
23 knife hearing.

24 With regard to procedures,
25 Mr. Commissioner, I will simply refer to the submiss-
26 ions that have already been made by CARC at the Yellow-
27 knife hearing and will not add anything to that.

28 And those are then the
29 points that I have to make and that is the submission
30 for the Canadian Arctic Resources Committee.

1 THE COMMISSIONER: Thank
2 you very much, Professor Lucas.

3 I am advised there is ano-
4 ther submission that Mr. Gunn wishes to make on behalf
5 of his firm Perlex, and I am advised as well that Mr.
6 Gibson, who appeared yesterday for the Working Group on
7 Energy from York University wishes to say something fur-
8 ther to supplement that submission.

9 I am also willing, natur-
10 ally, to hear Miss Hunt and Mr. Sutton and Mr. Lueck on
11 these questions that have been discussed by Mr. Goldie
12 and Professor Lucas, and I am, of course,
13 anxious to give Mr. Goldie an opportunity to reply.
14 I don't know whether we can do all of that this after-
15 noon, in fairness to everybody, and I am inclined to
16 think that we should adjourn until tomorrow, unless
17 there is -- yes?

18 MISS HUNT: We don't have a
19 particularly lengthy submission and we are quite pre-
20 pared to proceed now.

21 THE COMMISSIONER: We will
22 let you proceed now, then, Miss Hunt, and just see how
23 far we get. We can go a while longer. I just don't
24 want to treat this very important matter as something
25 that can be wound up in the late afternoon when people
26 are beginning to get a little tired and may feel that
27 they are rushed and not given a full opportunity to
28 speak. But if you wish to go ahead now, Miss Hunt,
29 certainly please do.

30 Please come to the front, if

1 you would like to.

2 MISS HUNT: Mr. Commissioner
3 the remarks that I will be making are on behalf of the
4 Federation of Natives North of 60, and in addition,
5 there may be a few remarks to be made by Mr. Sutton and
6 by Mr. Lueck.

7 Now, first of all, we would
8 like to deal with the question of the timing of the
9 hearings which was dealt with at some length by the
10 applicant this morning.

11 In the first place we would
12 like to say that we object rather strenuously to the
13 use of the word "delay" in the applicant's submission
14 this morning.

15 Throughout these hearings
16 all the submissions by the Native organizations have
17 dealt rather completely with the question of timing of
18 the hearings.

19 However, the question of
20 timing of the hearings has not been dealt with with the
21 intention that we seek delay for the sake of delay.
22 What we seek instead is meaningful participation by the
23 people who are going to be affected the most by the pro-
24 posed gas pipeline.

25 All our remarks in relation
26 to the timing of the hearings have, we feel, been con-
27 structive suggestions designed to assist you in setting
28 up a structure that will allow meaningful participation
29 by the Native peoples. We have heard throughout
30 these preliminary hearings that this entire hearing is

1 based on the idea that people will be allowed to parti-
2 cipate and that the hearing will be fair and open and
3 meaningful.

4 It is our contention
5 that there would, in fact, be prejudice to the Native
6 peoples if the hearings were allowed to proceed outside
7 of the proper time frame, which we have suggested.

8 It was suggested by the
9 applicant that many groups have sophisticated knowledge
10 of the pipeline application. We submit that this is
11 not the case, certainly not the case in relation to
12 Native peoples and to Native organizations generally.

13 Secondly, the applicant
14 dealt at some length with the suggestion that the pro-
15 posed haste, or their proposed timetable for these
16 hearings was justified because of public benefit.

17 And here we would re-affirm
18 the point that Mr. Lucas has just made that their
19 definition of public benefit assumes the merits of
20 their case which is to be presented before this Commis-
21 sion. I will give you two examples of this:

22 One example is that it was
23 suggested that the employment opportunities for Native
24 people are in the public interest and will provide
25 public benefit.

26 Now, this is simply their
27 statement and is something that may very well be ques-
28 tioned. In fact, there are many things that have come
29 up before you already that would suggest evidence to the
30 contrary. For example, there is reference to the submis-

1 sion of the Chief from Fort Franklin, and it was sugges-
2 ted by the applicant that he made the statement that he
3 wanted--that the people there wanted jobs.

4 We would suggest that the
5 intention of his statement has been misinterpreted and
6 misunderstood. In fact, what he said is that his choice
7 as to life style is being destroyed and has been des-
8 troyed already because of development that has taken
9 place.

10 And we would suggest that
11 there is not necessarily an assumption that people want
12 jobs but rather what he was saying is that people do
13 want a choice, but they are already losing this choice,
14 the choice of their traditional pursuits because of
15 development activities.

16 Another example of this pos-
17 sibly being an erroneous assumption is the fact that the
18 applicant has suggested the selection of the pipeline
19 route will provide minimal damage to traditional pur-
20 suits. Again this assumes the outcome of your hearing.

21 There are many arguments
22 against that contention. For example, nobody except the
23 people, the Native people, know exactly at this time
24 what is the extent of their traditional use of the land.
25 The applicant doesn't have that information. The Govern-
26 ment of Canada does not have that information. It has
27 never been documented. It is for that precise reason
28 that the Federal Government is currently funding studies
29 for a Native organization so that the land use and occu-
30 pancy material can be fully documented.

1 And we would suggest that
2 there is no basis on which to make that kind of asser-
3 tion at this time because if you don't know what the
4 extent of the traditional land use is, then how can you
5 say that the pipeline will provide minimal interference
6 with it.

7 Furthermore, the applicant
8 has suggested that the communities are ready to go
9 ahead with community hearings. At this time they have
10 suggested a very short period of time should elapse
11 before the community hearings should take place.

12 All the other submissions
13 by Native organizations have stated the contrary and
14 most emphatically. It has been continually emphasized
15 to you, and it was again yesterday by the Chief from
16 Fort Franklin, that there are in many places no commun-
17 ication links whatsoever, that the people don't have
18 radios, they simply don't have access to information.

19 And because of that, to us
20 it is very illogical and improper that the hearings
21 should -- the community hearings should proceed so
22 quickly.

23 There was reference made to
24 various information projects, both by -- that have been
25 undertaken by the applicant and by the Department of
26 Indian Affairs in the past several months. It was
27 suggested that this information has been sufficient to
28 inform people as to the pipeline, and that accordingly
29 they should be ready to talk about it.

30 There are a number of

1 points that we feel should be made specifically
2 about the Department's information project.

3 In the first place, this
4 project was not requested by the Native organizations.
5 It was done on the initiative of the Government itself.
6 And although the organizations participated in this
7 project, they did so on the express commitment from the
8 Government that the project and its work would not be
9 used in the way which the applicant as attempted to use
10 it. In other words, to say you already have all the
11 facts.

12 One can only draw the con-
13 clusion from this that the Government has broken again
14 its word to the Native Peoples, because this was a
15 tacit understanding involved in their participation in
16 that project.

17 Thirdly, one reason why
18 the Native people did become involved in that project
19 was simply because they recognized the inadequacy of
20 the information programmes which were being undertaken
21 by the applicant.

22 And the fourth matter in
23 relation to the Department's information project is
24 the simple fact that it was designed to deal only with
25 extremely elementary matters. It dealt with questions
26 such as "What is a Pipeline?" "What is Natural Gas?"

27 The project did not have
28 information before it on the very many other details
29 which were the subject of further studies. And just by
30 looking at the very nature of the project, I think it

1 is evident -- it is self-evident that that kind of pro-
2 ject couldn't possibly deal with the scope of this ap-
3 plication. The information simply wasn't there and it
4 simply was not disseminated.

5 And accordingly we are say-
6 ing that any information which has been received to
7 date has been extremely basic, because material was not
8 available, and we are now asking to have an opportunity
9 to disseminate that information for discussion, comment,
10 evaluation and assessment by the Native people in the
11 communities.

12 We would also like to comment
13 on why we think the proposed timetable and some other
14 aspects of suggestions as to your terms of reference
15 are not acceptable to the Native organizations.

16 In the first place, the
17 entire time framework which has been proposed by the
18 applicant is, in our submission, a mechanical one. It
19 is artificial and it is unrealistic. It doesn't relate
20 to the concerns of the communities and to the perception
21 which Native people have of their land and of their
22 life style.

23 This was shown very well, I
24 think, also by the Chief's statement to you yesterday.
25 The Native people adopt a total approach to their en-
26 vironment. And to suggest that this Inquiry could dash
27 into the communities within a matter of weeks, spend a
28 short time there, leave, and then go on to discuss
29 supposedly the more important issues in formal more
30 technical hearings, we feel suggests that the community

1 hearings are not important, and as far as we are con-
2 cerned, they are the most important aspect of this
3 Inquiry's proceedings.

4 Furthermore, our whole idea
5 of the community hearings and the formal hearings is
6 that there will be an inter-relationship between the
7 two; that is that the idea was to encourage Native
8 people through the vehicle of the earlier less formal
9 community hearings to participate and possibly give evi-
10 dence in the later hearings so as to bring their whole
11 experience before this Inquiry.

12 And we would suggest that
13 this timetable which has been suggested assumes that
14 these matters can be divided off into little boxes.
15 The Native people don't look at it that way, and we
16 think it would be most unfair if this Inquiry were to
17 force them, or to try and force them, to look that way.

18 We feel that they must be
19 given the opportunity to evaluate the material in rela-
20 tion to their own experiences. And an example of this
21 again relates to the whole question of the way they use
22 their land.

23 It was said, for example,
24 that there has been a study done of Caribou and that
25 nobody else is going to go out and do another study of
26 this.

27 Well, the fact of the matter
28 is that although there has been a study done on Caribou,
29 it was done in a very short period of time and the
30 people are aware of the fact that, for example, Caribou

1 herds are noted for their tendency to migrate, to change
2 their migration patterns from time to time.

3 The point is this, that the
4 results of that particular Caribou study, when it is
5 communicated to hunters in the communities, it may be
6 that in their experience, in their lifetime^{of} experience
7 as hunters, that they will see serious flaws in the
8 conclusions of that kind of study. And this is the
9 type of thing that we are -- we feel is essential to
10 a full and adequate hearing about this pipeline.

11 There was also a suggestion
12 that the question of feeder lines and treatment facili-
13 ties such as those that may be used to bring natural
14 gas from Richardson's Island should not be the
15 subject of this Inquiry's concern but should only go
16 before the National Energy Board. We see a very funda-
17 mental problem with this process, and that is as follows:

18 In that particular example
19 the community of Tuktoyaktuk is going to be very defin-
20 itely affected by the possibility of these feeder lines
21 and treatment facilities.

22 If that question is left
23 only to the National Energy Board, there really isn't
24 any possibility that the socio-economic concerns of the
25 people of that community can be evaluated. You know,
26 possibly one might say that if it were left to the
27 National Energy Board, then somebody would have to go
28 back later on, and evaluate the social effects of that
29 gathering facility on the community. The same thing
30 applies to the question of a railway, even though it may

1 be considered before the National Energy Board. There
2 are very fundamental and important socio-economic ques-
3 tions which we suggest would not be heard before the
4 National Energy Board, and we don't feel that these two
5 things can be isolated. And again it relates to the
6 whole total concept, the total approach that the people
7 have to their environment.

8 On the question of the Great
9 Bear proposed hydro-electric project --

10 THE COMMISSIONER: Miss
11 Hunt, may I interrupt you for a minute.

12 MISS HUNT: Yes.

13 THE COMMISSIONER: You are
14 dealing with, as everyone else has, some very important
15 questions regarding the course of this Inquiry, the
16 conduct of this Inquiry, the shape of this Inquiry, the
17 timing of this Inquiry. I think that if we are going
18 to do this thing right, we should start now. I am
19 simply saying that I don't really want to sit here for
20 another hour or two and try to absorb your contentions
21 when I am really anxious to hear them and to take them
22 into account, but I have heard Mr. Goldie and Professor
23 Lucas and they both, as you have done, spoke in a most
24 helpful fashion, but everybody is entitled to be heard,
25 and that means that the Commissioner should be fresh
26 enough to take into account everything that they say.
27 What I would like to do is
28 to suggest one or two things to all of you, and then to
29 ask you to come back tomorrow morning and to continue
30 this argument and to deal with some of these questions.

1 And, of course, if that is
2 all right with you, I would let you lead off to-
3 morrow unless there is some urgent reason why all of
4 this has to be wrapped up tonight.

5 MISS HUNT: No, there is no
6 urgent reason. I have about one more point to make, but
7 I will certainly leave it to your discretion.

8 THE COMMISSIONER: Okay.

9 MISS HUNT: Certainly, if
10 you would prefer me to finish tomorrow, that is fine.

11 THE COMMISSIONER: Well,
12 look, let me just throw out some thoughts that I would
13 like you all to just consider, and you don't have to
14 come back here and deal with them tomorrow at all.

15 Mr. Goldie, when he spoke in
16 Yellowknife, said that the community hearings ought to
17 precede the formal hearings. As far as I am con-
18 cerned, the community hearings and the so-called formal
19 hearings are both very important. And that is the
20 position he took again today.

21 Now, it seems to me you all
22 might consider the formal hearings beginning before the
23 community hearings, and then continuing after the com-
24 munity hearings have ended.

25 I say that because of a
26 number of considerations, and one of those is what we
27 call in law a Discovery, which has been dealt with
28 again and again, that is, the allegations that have been
29 made here that Arctic Gas is withholding material, that
30 the Government is withholding material, and it may well

1 be that someone will allege that the Native organiza-
2 tions are withholding material, or that CARC is with-
3 holding material.

4 Now, we have no procedure --
5 I can lay one down, I suppose, for the purposes of
6 eliciting all of this material, but it may be, and you
7 may want to consider this, that if we were to begin the
8 formal hearings, it would enable us to do two things:

9 First of all, if Commission
10 Counsel, whom I intend to appoint within -- well, be-
11 fore very long anyway, if Commission counsel were to,
12 at the outset of the formal hearings, were to call
13 Government people as witnesses, scientists, anthropolo-
14 gists, to discuss the work the Government has done --
15 I am not talking about the Assessment Group now, I am
16 talking about the general studies of the Mackenzie
17 Valley and the Delta that have been going on for some
18 time, if Commission Counsel were to call those Govern-
19 ment people as witnesses, not for the purposes of gett-
20 ing into the merits of the pipeline proposals, but
21 simply to provide an overview, to start the hearings
22 off, that would mean that counsel for Arctic Gas,
23 counsel for the Native organizations, and counsel for
24 the environmental organizations would have an opportu-
25 nity of finding out in cross-examination what reports
26 there may be. I, as the presiding officer at the
27 Inquiry, would have an opportunity of determining whe-
28 ther those reports ought to be produced.

29 Then, it may be after that
30 Arctic Gas could be asked to begin its evidence in a

1 very general way to indicate the scope of its studies
2 in the area, for the same purpose, to enable counsel
3 for the other parties to elicit any information, any
4 reports, any material that was used in preparing
5 reports, that would be useful to the Inquiry.

6 Now, the same procedure
7 could be followed by the Native organizations, who
8 might then be asked to proceed with their evidence in
9 that general fashion, not to deal at all with the
10 merits of this pipeline proposal but to enable the
11 Inquiry to determine if there was material available
12 that ought to be disclosed to all concerned. And, of
13 course, the same procedure would apply to Canadian
14 Arctic Resources Committee and any other environmental
15 group that was represented.

16 Now, that would enable us,
17 at least, to achieve a kind of Discovery which seems to
18 be uppermost in the minds of everyone. There isn't an
19 hour passes at this Inquiry that someone doesn't get up
20 and say that there is a document, if only we could find
21 out where it is and get it, that would cast a lot of
22 light on this whole situation.

23 Now, the other purpose
24 that might be served, and I am not talking about timing
25 so much as about the order in which we should proceed,
26 the other purpose that might be served by doing that is
27 that if there were, for instance, from government wit-
28 nesses at the very outset, some discussion of the
29 habits of the migratory game, some discussion of the
30 effects so far seen of seismic activity, and so forth,

1 then the Native organizations would be in a position to
2 go into the communities with some fairly specific mat-
3 ters upon their -- that they could take back to the
4 communities to see if there was evidence that they
5 wanted to elicit from people in the communities.

6 Let me put it this way:

7 We know that in the Valley and in the Delta there have
8 been many Government and industry people who have been
9 examining the environment, examining the habits of the
10 fish and the animals, who have filed lengthy reports on
11 all of these subjects.

12 Now, the point has been
13 made, and appears to me to be one that is well made,
14 that people who live in these communities, Native people
15 and others, know something about these things. All wis-
16 dom and all knowledge isn't locked up in the heads of
17 the experts employed by the Government and the industry.
18 And it may be that we can achieve some means, if we be-
19 gin the formal hearings before the community hearings,
20 of disclosing that -- those contentions in a way that
21 enables the Native organizations and others to go back
22 to the communities and to prepare the people there to
23 give their side of those contentions, those expert
24 opinions regarding the environment and the related con-
25 siderations.

26 Now, as far as I am
27 concerned, when we get to the Report of the Assessment
28 Group, the members of the Assessment Group should be
29 available to be cross-examined. Whether that -- it
30 seems to me, though, that should come after the evidence

1 on the merits by Arctic Gas. I am now getting into what
2 I conceive to be a second phase of the formal hearings,
3 and whether that would occur before or after the commun-
4 ity hearings is a matter I would like to hear you on,
5 but when we get into the actual specific contentions of
6 the parties, it seems to me we should hear from the
7 experts for Arctic Gas. They should be cross-examined.
8 We should hear from the Assessment Group. They should
9 be cross-examined. And so forth. That procedure
10 would apply to all parties.

11 Now, I only throw that out
12 because I would like you all to think about it and
13 if you wish to, to offer some views on it tomorrow.
14 And I am not talking about a timetable. Let me make
15 that clear. I am talking about the order in which
16 these events would occur, leaving to one side for the
17 moment the question when they would occur.

18 So, I think that we will
19 adjourn now until 10:00 o'clock tomorrow morning.

20 (PROCEEDINGS ADJOURNED TO 10:00 A.M., MAY 8th, 1974.)
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Canadian Arctic Gas

Vol. V

Pipeline

AUTHOR

Mackenzie Valley Pipeline enquiry,

TITLE

Vol. V

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~~111111~~ MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF AN APPLICATION BY CANADIAN ARCTIC GAS
PIPELINE LIMITED FOR A RIGHT-OF-WAY THAT MIGHT BE
GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY
AND THE NORTHWEST TERRITORIES FOR THE PURPOSE OF THE
PROPOSED MACKENZIE VALLEY PIPELINE

~~and the proposed Mackenzie Valley Pipeline~~

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC
IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND
SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Hon. Mr. Justice T.R. Berger, Commissioner)

Ottawa, Ontario

May 8, 1974

PROCEEDINGS AT INQUIRY

VOLUME VI

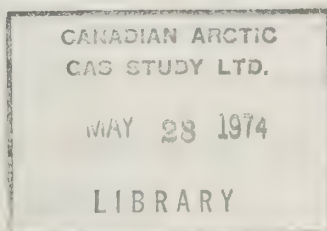
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1 OTTAWA, Ontario,

2 May 8, 1974

3
4 THE COMMISSIONER: We will
5 come to order this morning, and first of all, before
6 we return to the questions of procedure that were
7 raised yesterday by Mr. Goldie and Professor Lucas
8 and Miss Hunt, I will ask Mr. Gunn of Perlex Inter-
9 national to speak. He wishes to make a submission on
10 behalf of his firm. Then I will ask Mr. Gibson,
11 who spoke on Monday on behalf of the Working Group
12 on Energy, to speak, because he has indicated that his
13 group wishes to add something to what they said
14 earlier.

15 So Mr. Gunn, you can go ahead
16 now if you wish.

17 MR. GUNN: Thank you Mr.
18 Commissioner. My name is Mr. Gunn, Tom Gunn, from
19 Perlex International Chemicals Limited here in Ottawa,
20 headquarters, which is a Canadian letters patent
21 company, and I represent the Board of Directors as
22 a Director and in the position of Chief Scientist of
23 that corporation.

24 Before I go any further into
25 any background as to why we are represented at all here,
26 I would like to make a couple of comments if I may,
27 Mr. Commissioner, on terms of reference points which
28 are of interest to us and possibly this hearing, that
29 have not been covered in the brief that we had prepared
30 prior to the hearing.

1 THE COMMISSIONER: Go ahead.

2 MR. GUNN: Then I will
3 address myself to our involvement.

4 The first point is in refer-
5 ence to the Order-in-Council on the general statements
6 and directive. I call your attention to Statement
7 2, the words 'terms and conditions' and 'appropriate'
8 and the directive which follows, 'terms and conditions
9 that should be imposed in respect of'.

10 We feel that this last
11 statement 'imposed in respect of' clarifies the
12 statement previously and is important in that, we submit,
13 that since it does not say 'imposed on' the applicant
14 if granted a right-of-way but should be 'imposed in
15 respect of'. It does not specifically state the
16 applicant.

17 We submit that the terms and
18 conditions are intended not only to apply after the
19 grant and to an applicant, if any, but also your
20 terms of reference include terms and conditions in
21 your recommendations which apply to any other procedural
22 matter which may occur from the date of your report
23 to the Minister through the date of the actual grant
24 of the right-of-way, providing of course, such pre-grant
25 terms and conditions, recommendations are relevant in
26 that they are essential to ensure that the granted
27 right-of-way terms and conditions are pursuant to
28 regional impact considerations.

29 In other words, it is clearly,
30 we submit, the intent of your directive not only to

1 report on terms and conditions which you recommend to
2 be imposed on a successful applicant, if any, but also
3 that you are to recommend terms and conditions which
4 must be imposed upon the evaluation procedures which
5 are to occur following your report, if deficiencies
6 in such procedures could possibly prejudice the final
7 regional impact contrary to the findings of your
8 Inquiry, resulting in unexpected or adverse environ-
9 mental, social and economic regional impact, and do
10 only this adverse impact -- due only to evaluation
11 procedure deficiencies between the time of your report
12 and the final decision and not to any actual flaw in
13 content.

14 We feel it is especially
15 important, as indicated here our feeling is that it was
16 important to know by the recommendations of this Inquiry
17 how you further recommend analysis might be approached
18 by others less close to the details than those in
19 this Inquiry to yield the fairest, final decision in
20 the most expeditious manner. This would not be nec-
21 essary if this Inquiry was in fact the only participant
22 in the decision process.

23 We suggest that your terms
24 of reference clearly ask for this interface with the
25 other administrative participants in the decision
26 process, and further that this interpretation is in
27 the best interest of all parties to the Inquiry in
28 arriving at a just decision in the most expeditious
29 manner. Also this one point, that testimony
30 such as has been offered by Pollution Probe, for

1 example, concerning the decision process is indeed
2 relevant to this Inquiry and the results of the terms
3 and conditions of your recommendations.

4 The other point on procedure
5 is based upon definitions which we whole heartedly
6 endorse that were presented by the testimony of the
7 Canadian Arctic Resources Committee, Section One, in
8 terms of the definition of -- interpretation of the
9 Order-in-Council, and we submit that you might consider
10 this very important situation of land claim settlement
11 that in fact, in all practicality, these are part of
12 the terms of reference of this Inquiry based on the
13 definitions that were submitted by CARC and by one
14 other submission that we have and that is that the
15 word property, wherever referenced throughout the
16 Order-in-Council, the Guidelines and any other applica-
17 ble documents to the analysis of this request by the
18 applicant, the word property be interpreted fully to
19 include all property, not just fixed assets which is
20 generally considered in the economic sense, all property
21 upon which legal precedence has been established in
22 the protection or litigation of property.

23 We interpret that the inter-
24 ruption of one's chosen way of life is indeed an
25 emotional tort and is based in fact in precedent cases
26 heretofore. That mental property as well as physical
27 be included in those terms of property, specifically
28 because of the impact considerations regionally which
29 is of, I understand, the paramount consideration of
30 this Inquiry. That to deal with physical property or

1 impacts and not deal with the emotional property,
2 from the legal sense, would make the results irrelevant
3 we believe, and that emotional tort allows this land
4 claim settlement, in fact insists that it be part and
5 parcel of the results of this Inquiry.

6 This same consideration
7 goes further to consider the seasonal delay arguments
8 and the translation time delay arguments that have
9 been presented. From the paragraph (b) in the Order-
10 in-Council, 'social impact', the word 'social' implying
11 people which is a two way impact if it is to be, in
12 our opinion, totally studied. The impact on the people
13 we have heard about, but there is an equal and equally
14 important people impact in the other direction, from
15 the region to Canada as a whole, economically, socially
16 and environmentally. It works both ways.

17 We suggest again that land
18 claim settlements are part of that consideration.

19 The last part on terms of
20 reference with regards to procedure is that the word
21 'economic' impact, and that economic impact of para-
22 graph (a) of the Order-in-Council include within
23 the scope of this Inquiry, political and control
24 impact both regionally and federally, as has been
25 argued by others. Our reason for submitting this
26 interpretation as being essential is that due to the
27 scope of the proposed project, any political or external
28 control, financial implications et cetera that might
29 possibly exist due to no fault of any of the parties
30 involved, will definitely affect the federal and

1 provincial -- federal authorities. It is our belief
2 that this Inquiry is the only aspect of the decision
3 making process that is not subject to outside pressures,
4 we hope, and that for that reason alone, that this
5 interpretation should be considered by this Inquiry.

6 I would like to now just
7 briefly address the situation of why Perlex Inter-
8 national Chemicals is represented, not being an
9 environmental group, not representing the native
10 situation and not representing the applicant.

11 Perlex International Chemi-
12 cals is a relatively new undertaking in Canada, origin-
13 ally founded by a group of people, scientists and
14 managers worldwide, who for the past six years have
15 formed an organization that will deal with the impact
16 or the design of equipment, materials, applications,
17 manufacturing, to fit environmental, social and
18 economic problems, design the technology or the end
19 product, the manufactured product, around the problems
20 inherent in the environment.

21 A facility is about to be
22 constructed, hopefully ground will be broken this fall,
23 of the first such development facility in the world
24 which addresses itself to all materials and all appli-
25 cations, which is a rather large undertaking. Speci-
26 fically Perlex represents the natural resource of
27 product innovator, one which has been overlooked in
28 Canada, or underestimated for quite some time.
29 Product innovators and their innovations either sell
30 themselves or their products elsewhere because they

1 cannot innovate under the system that exists here at
2 the moment, and we submit that the product innovator
3 knows no nationality and knows no walk of life and
4 that Canada is just as rich in this as everyone else.

5 We exist to organize this
6 particular resource and because of the impact of the
7 pipeline application, potential impact, this resource
8 is one we felt has not been addressed by any of the
9 decision making organizations involved in producing
10 terms of reference for this Inquiry.

11 We concern ourselves with
12 two basic situations, the retention and stimulation
13 of innovation as I have just mentioned, and new con-
14 struction materials, technology, represented in Canada.
15 The result of one technology which has been under study
16 for the past six years by our organization was a basic
17 motivation which compelled us to make representation
18 here informally, and that was because this new
19 material technology directly was designed for corridor
20 applications in northern Canada and elsewhere in the
21 world with the 20 percent of the earth's land area
22 that is involved in permafrost conditions.

23 We would like to see that
24 some representation during the course of the total
25 Inquiry, in some manner, take account of the technologi-
26 cal base of existing technology or new technology that
27 is available to be used by the applicant and is offered
28 to the people and the economic impact considerations
29 of the north.

30 We are also involved here

1 because of our political involvement in both regional
2 and national impacts of any technology, and indeed,
3 a pipeline is a technology on the resources of Canada
4 and we submit the current Product Development Incent-
5 ives Act which we submitted over two years ago, that
6 is in part being implemented at this time, and our
7 submission of the Hydro Pact to alleviate some of the
8 local conditions in the United States regarding oil
9 supply by the supply of hydro electric power from
10 Canada. So we are also involved in energy base
11 considerations and have compiled data with government
12 and are working in these areas.

13 We don't intend at this
14 time to intervene in any aspect of the hearing. Our
15 main case or our total case here is that representation
16 of new material technology, the product innovator
17 resource, have more than a cross-examining type oppor-
18 tunity to be heard on those points which directly
19 relate to technical merits. As has previously been
20 brought forward, technical merits may best be discussed
21 under the terms of reference of the National Energy
22 Board, but we submit also that the same technology
23 and technical merits, the materials, construction
24 techniques, are also, from a different viewpoint,
25 applicable to this Inquiry in that a change of material,
26 application, or technology may definitely have a bearing
27 on the economic, social and environmental impact of
28 the pipeline.

29 We submit that some means
30 should be considered, which we have no answer for

1 at the moment, of making available this testimony of
2 industry, of government, military product and material
3 technologies to this Inquiry, rather than having to
4 wait for the final phase -- or the second phase formal
5 hearing situation and intervene on behalf of Canada
6 or whatever organization has the technology, that that
7 intervention would be time consuming and could best
8 be handled prior to that by interaction between the
9 applicant and this technology.

10 The problem as we see it
11 and the basic motivation here and what makes it relevant,
12 makes us relevant, makes new technology relevant to
13 this hearing is that security is involved and we ask
14 that this Inquiry give very serious consideration to
15 the aspect -- to this aspect that in this area, the
16 technological area, there are trade secrets, patents,
17 proprietary information of private individuals, cor-
18 porations, private and public, federal government and
19 National Defense. A great deal of information, we
20 believe, is applicable, as previously outlined, but
21 unfortunately it has some problems involved in its
22 disclosure, publicly or to outside sources, third
23 parties.

24 We are very concerned about
25 this point and we would like to take it one step
26 further in our concern and that is on the Securities
27 Act, that any information, data, details, such as
28 being studied, and gathered and being presented and
29 testified on, not regarding to materials and technology
30 but information which, in any way, could affect the

1 security or the way of life of the people of the
2 country if disclosed to third parties, is indeed by
3 the National Securities Act, defined as top secret
4 information, which could present some interesting
5 problems.

6 We submit that some testi-
7 mony during the course of this Inquiry, should be
8 handled and regarded and preserved in light of the
9 security question and in view of outside parties,
10 namely governments, corporations or individuals not
11 directly involved in the Inquiry or the aspects of
12 this Inquiry, that that information not be available
13 under some technique. It is for this reason that we
14 have made no written submission at this time in sup-
15 port or in evidence of existing technology that has
16 addressed itself to corridor or pipeline questions.

17 We submit that such techno-
18 logical addressing by other Canadian organizations has
19 occurred but we do not feel until this question is
20 resolved, this testimony can be put in written form
21 for everyone. We further submit that the calling of
22 expert testimony from such corporations, individuals,
23 government or military on technical merit aspects,
24 both regionally and nationally, that some means be made
25 that that testimony not necessarily be heard by the
26 general public or outside parties, that a corporation
27 not be put in that position.

28 The last point in terms of
29 our involvement as Perlex International Chemicals,
30 is regard to statements made yesterday by Mr. Goldie,

1 regarding the situation of El Paso Natural Gas and the
2 combination of American and Canadian gas through the
3 pipeline vs just Canadian and its impact on the
4 Canadian public.

5 We submit that due to this
6 technology of which we are involved in, a 48-inch
7 pipeline, as was stated, costs not that much more
8 than one-half the size to carry Canadian gas with a
9 much greater economic potential if it could carry the
10 greater quantity using American gas. We also submit
11 that it works the other way and that our project has
12 involved a manufactured technology corridor which
13 includes and encompasses not just the gas but oil, can-
14 nister pipeline shipping, everything from mail to grain,
15 in the same corridors of pipe, pulpwood, power lines
16 and so on, all in one system of materials which, we
17 submit, until otherwise proven differently, would in
18 fact cost no more than just the pipeline itself, and
19 provides a possible solution to the problem as an
20 applicant, having to completely research every
21 possible mode of transport of anything.

22 This system was designed
23 around the need for what was being transported totally
24 rather than just as a pipeline for a specific applica-
25 tion. It is this type of technology that we would
26 like to see represented. So we submit that the pressure
27 considerations of whatever El Paso wishes to do with
28 Arctic Alaskan gas, oil or whatever, in fact can be
29 shown, we believe, to be economically, socially and
30 environmentally irrelevant due to existing technology

1 now available in Canada.

2 I hope our comments have had
3 some bearing on this hearing and your scope in terms
4 of reference, and we thank you very much for the op-
5 portunity to be heard. On behalf of the Board of
6 Directors I am instructed to pledge our support
7 whether academic questions or whether technical
8 regarding the impact, both politically and socially.

9 THE COMMISSIONER: Thank
10 you very much, Mr. Gunn. I am very grateful to you
11 for your submission.

12 Mr. Gibson, I understood
13 that you wished on behalf of your group to make some
14 further supplimentary remarks, is that so?

15 MR. GIBSON: Yes.

16 I have only a very brief
17 thing to say and I have also been asked by Mr. Sandford
18 Osler of Pollution Probe to read some comments that
19 he wished to make yesterday and was unable to be here
20 today to make. It is also extremely brief.

21 THE COMMISSIONER: Well you
22 make your own supplementary submission and after that
23 tell us when you get to Mr. Osler's remarks.

24 MR. GIBSON: Fine.

25 I have basically an appendix to the submission I made
26 on Monday. I had planned merely to file it with you,
27 but since Mr. Goldie brought up the issue of the ade-
28 quacy of the Energy Board hearings yesterday, I guess
29 I should mention some of these points verbally before
30 just filing it with you.

1 In the main body of our
2 submission we argue that the Mackenzie Valley Pipeline
3 Inquiry can reasonably follow one of two approaches,
4 either to interpret the terms of reference broadly
5 and consider all the relevant issues, or to interpret
6 them narrowly and postpone the hearings until the
7 National Energy Board has made its decision.

8 We realize that there are
9 legal problems involved with the interpretation question,
10 and we do not address these. Rather we argue that in
11 the interest of justice being done, in the interest of
12 the wisest decision being made, it would be better
13 for the Inquiry to operate under the broadest possible
14 interpretation of its terms of reference.

15 We make this argument on
16 the grounds that it is not reasonable to assume, as
17 Mr. Goldie apparently does, that all the issues raised
18 by the application will receive a full fair and impartial
19 hearing before the National Energy Board. We realize
20 that this is a serious accusation. It is not made, nor
21 do we expect it will be taken lightly.

22 Some of the points supporting
23 this contention have been brought up already and I
24 won't go over them again. In this appendix we make
25 five specific arguments. First, we note that National
26 Energy Board members and staff have made a significant
27 contribution to the policy making process which has led
28 to the publicly announced position of support by the
29 federal cabinet regarding the pipeline project.

30 Secondly, the Minister of

1 Energy, Mines and Resources is apparently reluctant to
2 fund intervenors before the National Energy Board,
3 leaving the possibility that that National Energy Board
4 hearings will be largely one sided.

5 Third, the Board has shown
6 little concern for social and environmental costs in
7 the past and has no expertise in these areas. Further-
8 more the Board is legally able and may well be inclined
9 to ignore these issues.

10 Fourth, the Board's procedures
11 and practices will likely result in various restrictions
12 on access to relevant documents and other sources of
13 information.

14 Fifth, and finally, the fact
15 that the Board's decision is final only in the case
16 that it refuses the application, combined with the fact
17 that such a refusal would alienate the Board from the
18 industry which it must regulate, provides the Board
19 with considerable incentive to approve the application.
20 We are, in sum, not confident that the NEB hearings
21 will in fact be full, fair and impartial, and such is
22 argued in the appendix which I would like to submit.

23 THE COMMISSIONER: Yes, thank
24 you, Mr. Gibson. This appendix then will be marked
25 as an exhibit.

26 (APPENDIX TO SUBMISSION BY WORKGROUP ON CANADIAN ENERGY
27 POLICY MARKED AS EXHIBIT 22 (b).)

28 MR. GIBSON: Should I read
29 the Probe thing now?

30 THE COMMISSIONER: Yes, I

1 think you should read whatever Mr. Osler left with you.

2 MR. GIBSON: I will, I sup-
3 pose, be impersonating Mr. Osler now. When the word
4 'I' is used, it means him.

5 Pollution Probe has two
6 points to make. First in my submission on Monday I
7 made some comments on the National Energy Board and
8 the inadequacies of its procedures intending only to
9 provide some background points. However, since Mr.
10 Goldie has seen fit to argue that the Mackenzie Valley
11 Pipeline Inquiry should not cover material which will
12 be discussed before the National Energy Board, I think
13 the points about the inadequacies of the NEB become
14 very important.

15 The NEB is characteristically
16 inaccessible and its hearings do not encourage effective
17 public participation. We have suggested changes which
18 would increase the accessibility of the Board but there
19 has been no indication that any such changes will be
20 forthcoming. Thus the NEB remains an inappropriate
21 forum for trying to get a real feel of the regional
22 impact of the proposed project or its alternatives.

23 Presumably the present Inquiry
24 was set up in recognition of this fact. It does not
25 follow that because the NEB will consider certain
26 issues, these issues should not be discussed by this
27 Inquiry. The NEB and the Inquiry will be listening
28 to different constituencies for different purposes.

29 The Inquiry should there-
30 fore hear all matters relating to the regional impact,

1 whether heard by the NEB or not. The Inquiry cer-
2 tainly should not assume that the issues touching on
3 regional effects will be adequately covered by the NEB.

4 Second point, Mr. Goldie,
5 in his argument yesterday against postponement of the
6 Inquiry's hearings until after the NEB decision
7 developed an interesting parallel between the products
8 of the two sets of hearings. He mentioned the contention
9 that the Inquiry would be a waste of time if NEB
10 deliberations subsequent to the Inquiry hearings
11 concluded by rejecting the application. He then argued
12 that this was an unsatisfactory argument for postponing
13 the hearings because a parallel contention could be
14 developed for the hearings in a reverse order, namely
15 that the NEB hearings would be a waste of time if
16 Inquiry deliberations subsequent to the NEB hearings
17 resulted in a rejection of the application.

18 It is encouraging that Mr.
19 Goldie accepts that it is within the powers of the
20 Commissioner to recommend rejection of the application.
21 However we note that he omitted in his development of
22 his parallel argument mention of the fact that a Nat-
23 ional Energy Board decision against the project was
24 final and does not require Cabinet approval. Mr.
25 Goldie is surely aware of this fact. Thus it would
26 seem that in insisting on this parallel between the
27 products of the NEB and the Inquiry deliberations,
28 Mr. Goldie implies acceptance of the position that an
29 Inquiry decision against the project will or should
30 also be final.

1 THE COMMISSIONER: Thank
2 you very much, Mr. Gibson. The supplementary remarks
3 of Mr. Osler that were read by Mr. Gibson will be
4 marked as an exhibit.

5 (POLLUTION PROBE - SUPPLEMENTARY - MARKED AS EXHIBIT 33)

6 THE COMMISSIONER: Well Miss
7 Hunt, I think we are back to you now, if you would like
8 to carry on from the point that you had reached when
9 we broke off yesterday.

10 MISS HUNT: Yes, Mr.
11 Commissioner, I will do my best to carry on from where
12 I left off.

13 Just to reiterate slightly
14 what I want to address to you is the question of the
15 interpretation of your terms of reference and there
16 has been a submission by the Federation as to various
17 things which we feel should be included in the inter-
18 pretation of your terms of reference.

19 Now we would suggest that
20 you are authorized to consider those things we have
21 mentioned because of paragraph (a) of the Order-in-
22 Council which we would suggest is broadly worded as
23 it authorizes you to assess social, environmental and
24 regional impact.

25 The reason that we think it
26 should be interpreted broadly and to include the matters
27 which we have raised is simply this. The native people
28 who are the ones who will be most affected by this
29 pipeline, possess a total approach to the environment
30 and to their life. It is not a matter of being able

1 to separate one aspect from another and I think this
2 has been put forward to you very, very clearly by
3 various native people who have addressed you in these
4 hearings, and in particular, by the Chief of Fort
5 Franklin.

6 There are two specific
7 examples of this which I touched on yesterday. One is
8 the question of feeder lines and treatment facilities
9 as it affects the community of Tuk. It has been sug-
10 gested that this is a question that should properly be
11 before the National Energy Board, and as I suggested
12 yesterday, in that case there would be no possibility
13 for the input of the community on that, or for an
14 examination of the socio-economic affects of that.
15 Again because of the fact that native people will
16 view this in a total context, we feel that it is
17 important, essential in fact, that those questions be
18 considered before you.

19 The other example is the
20 question of the Great Bear Hydro project. It has been
21 suggested by the applicant that the Governor-in-
22 Council would ultimately decide that question. There
23 is a bit of a problem here because in connection with
24 the newspaper quotations which have been directed to
25 your attention by Dr. Thompson, it is clear that the
26 federal government has said that the Great Bear project
27 is considered to be part of the concept of the Mackenzie
28 Valley Pipeline.

29 We would suggest therefore
30 that in view of the fact that the government will

1 ultimately decide this question, whether the applicant
2 likes it or not, it has, in effect, become part of
3 their application because of the position of the govern-
4 ment.

5 Secondly, and this relates
6 to the same point that I made before about the total
7 approach to the environment of native peoples, the
8 Chief from Fort Franklin specifically referred to the
9 hydro electric project and it is clear that that too
10 is fundamental to their concern about the pipeline
11 because again, they see the whole thing in a total
12 context.

13 We would suggest that when
14 you are examining the social, environmental, and
15 economic impact of this application, you cannot ignore
16 the concerns which are expressed by the community. That
17 is essential to your consideration.

18 The government has stated,
19 the Department of Indian Affairs has stated that its
20 first priority in the north is the people of the north,
21 and accordingly it is our submission that in interpreting
22 your terms of reference you must pay heed to the terms
23 of reference in the environmental and social and
24 economic questions as they are seen by the people in
25 the communities.

26 THE COMMISSIONER: Thank
27 you very much. Mr. Sutton do you wish to say anything
28 further at this stage?

29 MR. SUTTON: No sir.

30 THE COMMISSIONER: Mr. Goldie?

1 MR. GOLDIE: Thank you, Mr.
2 Commissioner. I will attempt to be brief, which I am
3 sure everybody will applaud. My colleague says I will
4 be briefer still if I can't find my notes.

5 I want to deal very quickly
6 with some of the propositions that Mr. Lucas in his
7 very able argument put forward on the question of the
8 scope of the terms of reference -- or I am sorry, the
9 scope of the Order-in-Council.

10 THE COMMISSIONER: Excuse
11 me, Mr. Goldie, in fairness to all concerned, I perhaps
12 should have asked before calling on you if there was
13 anyone else here who wished to say anything. Was there
14 anyone else who wished to deal with --

15 MR. LUECK: I wanted to
16 make one short statement.

17 THE COMMISSIONER: Oh, Mr.
18 Lueck, forgive me, I hadn't seen **you** there.

19 MR. LUECK: I sneaked in
20 the back door. I will just stand. It is going to be
21 very short.

22 The one proposition that I
23 wanted to put forward at this point in rather a re-
24 buttal to a number of things that have been said by all
25 of the solicitors for the different organizations and
26 the other representatives, is in reference to your
27 scope of terms of reference and the 1972 Pipeline
28 Guidelines.

29 I think lawyers have a habit
30 of torturing words and trying to make them say things

1 that they don't say, and with all due respect to my
2 learned friends, I don't think it is possible for your
3 present Guidelines and your Order-in-Council directions
4 to say some of the things that we would like it to say.
5 The obvious answer is not that you should try to torture
6 these words and make them mean something they don't
7 mean on the face of it, but if, after you have looked
8 at all of our propositions and you agree that the terms
9 of reference are not correct, the obvious thing to do
10 is to go back to the Minister and back to the Cabinet
11 and say, change my Order-in-Council to this, and draught
12 out what you want and what you think is correct, follow-
13 ing, I hope, our suggestions. That way it is going to
14 be very clear to everybody.

15 I wanted to put that on the
16 record. I am sure you had thought about it already,
17 but I wanted it recorded that this should be done. I
18 think it is the obvious thing to do, and rather than
19 us going around and around trying to say that these
20 things mean what they in fact don't mean by Webster's
21 Dictionary, I would suggest that the other alternative
22 be followed.

23 Thank you.

24 THE COMMISSIONER: Thank
25 you, Mr. Lueck. Is there anyone else who wishes
26 to say anything at this stage? You are certainly
27 free to do so. Did you wish to say anything? Please
28 come forward and take a seat if you wish.

29 MISS TOBAC: It is not very
30 formal but I will just talk about some of the things.

1 THE COMMISSIONER: Fine.

2 Just go ahead. We are not standing on ceremony.

3 MISS TOBAC: Listening to
4 Artic Gas or CAGSL, or what they call themselves yes-
5 terday, and saying that they have been visiting settle-
6 ments talking to people. I have seen examples of some
7 of their visits, because living up north and having
8 lived in Fort Good Hope for two years, it is interesting
9 and very important to note that they always had their
10 Twin Otter handy.

11 If they came to a settlement
12 they sent word ahead that they were going to meet with
13 the settlement council and it didn't matter if all of
14 the council members were in town, as long as they say
15 that they have spoken to the people, if they have
16 spoken to the settlement council.

17 Also they referred to Gemini
18 North carrying out some of its studies for them, and I
19 have seen some of their meetings, or attended some of
20 their meetings with some of the peoples and it is just
21 that sometimes people like that have too many things on
22 their side when they come into a settlement. They have
23 their planes, they have got bread. We don't.

24 At one time, in one incidence,
25 in October of '73, Gemini North said that they wanted
26 to come and speak to the settlement council that night
27 and came in and they were told that they weren't in-
28 vited, didn't want to talk to them, because anything
29 that we have ever said to you before, to you, whether
30 it is to you, Gemini North, or to the pipeline companies,

1 or whoever you are, government, what we say you just
2 don't care, because we don't see any results of what
3 we have said to you. So Gemini North had to turn
4 back, or go to Norman Wells and fly out two people
5 from Fort Good Hope, and one of them was my brother
6 and the other one was the Chief, to say that they
7 had consulted probably with the people of Fort Good
8 Hope.

9 At the same time I think I
10 am slightly perturbed at Mr. Goldie for having to use
11 Chief Kodikan's name to support some of his statements
12 that he refers to in saying something about that the
13 pipeline would be good because it would provide some
14 modes of wages.

15 I think what the Chief said
16 has been misinterpreted by quite a few people in this
17 room. He is only saying, I know when he said that if
18 you had come to visit Fort Franklin once a week, being
19 the person that you are and sitting in the position
20 that you have of looking into the briefs, what he meant
21 was that it wasn't just you personally. He meant a lot
22 of white people that come into settlements, whether it
23 is the government officials or whether it is CAGSL or
24 whether it is Gemini North or anybody that wants
25 something out of these people, to support what they
26 have to support or what they have to carry out, to say
27 simply that we have consulted.

28 He meant to say that you
29 don't know our way of living in a settlement, and I
30 understand what he meant, and I do because I have lived

1 in Fort Good HOpe for two years myself now.

2 I know what it is -- I
3 mean if a gallon of gas costs \$1.25 and a 45-gallon
4 oil drum costs \$17.45, it used to be \$13 and some
5 cents before, at the time that I went in two years ago.
6 A dozen eggs costs \$1.73 in Fort Good Hope and it
7 costs a \$1.95 in Fort Franklin.

8 The Chief is worried, of
9 course, about the hydro electric dams on Bear River
10 because Fort Franklin just happens to be sitting right
11 on the shore of Great Bear Lake and Fort Franklin just
12 happens to be sitting on the flat land and the land
13 just tapers right into the river, and there is an
14 engineering report that says there is a natural flucu-
15 ating level of three feet and that if they raise the
16 level it will come up to 2.3 feet. That is enough to
17 flood Fort Franklin.

18 Also relating to the impor-
19 tance of communication, I was in Fort Franklin during
20 the time you were holding your preliminary hearings
21 in Yellowknife and Inuvik and there was nothing coming
22 over. There was no reports, no news, because there
23 is no reception in Fort Franklin with the CBC northern
24 services, and that alone to you, I think, indicates
25 how important it is that we have better communication
26 systems. This brings in also the tons of material
27 that CAGSL has printed right there alone and if we have
28 to inform the people in the communities, and if we even
29 have to translate something like this, if you work on
30 /reading, you have to
/translate things like this, break down the words to a

1 level of English that would be understood to the person
2 that you are explaining to and that person has to spend
3 about five times the time that you have worked on it
4 in English to bring it back to the people and make sure
5 that he doesn't misinterpret what is written.

6 Of course, CAGSL or whoever
7 is going to build a pipeline, is going to feel confi-
8 dent, mainly of course, again, because they have got
9 bread on their side and we have got no red penny to
10 match up their dollar for dollar. Everything has been
11 done on their side. We have been used over and over
12 and over again. We haven't got our own information
13 documented as to why we don't want a pipeline, why we
14 don't want highways, why we don't want dams. Maybe we
15 are not saying that we don't believe in these things,
16 probably that is what we are saying too, but at the
17 same time if they said that they spent years collecting
18 this data, well they have used us to collect some of
19 that data and to document it. And we haven't had funds,
20 especially in the communities. We haven't got people
21 coming into communities saying exactly why do you feel
22 the way you do, and if we tell them it is not documented
23 or it is not told, or the news media is not there to
24 catch the feeling when the people are talking about
25 these things.

26 We are forever flooded with
27 people that want to know how you feel about this and
28 we have said over and over and over again why we feel
29 this way and we are tired of repeating ourselves. It
30 is very important, I think, we feel, in the settlements

1 that anybody that is going to be coming to visit us
2 from now on that wants information from us, for now on,
3 is just going to have to know a little bit more than
4 some of the people that have been coming in.

5 And I don't care if CAGSL
6 says they have been coming into the settlements and
7 they have visited there for an hour or two and they
8 have talked to the settlement council, they just haven't
9 lived there, and they don't live there, because they
10 have more pressing matters. Well we have pressing
11 matters too.

12 In a settlement like Fort
13 Good Hope with a population of 440, incidently Fort
14 Franklin has a population of 410, we have meetings to
15 go to too, sometimes two, three meetings a day. I
16 mean you think you are worse off here. It is just as
17 bad up there too, because of the many things that are
18 happening, the accelerated pace of development.
19 Different government officials come in and say we have
20 to have a meeting on this. The settlement council
21 has to have a meeting on this. School board advisor,
22 what you have got, we have got it too.

23 But the things we don't have,
24 access to communications, we don't have bread to do our
25 own thing sometimes.

26 I think that people in the
27 settlements are darn tired of having to deal with people
28 that don't know anything about them in the first place
29 anyways because they know too much about themselves.
30 We just don't have respect for anybody that comes in

1 and that we know that doesn't know anything about us,
2 or is just coming in for information that they could
3 use to their advantage and not to ours.

4 If it bears anything to what
5 the people of Franklin think about the dams, these are
6 some of their statements. Who is the government build-
7 ing new houses for? They are destroying their own
8 structures. Look at the money that the taxpayers give
9 to build all these buildings. Are the white people
10 so unconcerned that they will allow the flood, but
11 worse to see their own money washed away. Look at our
12 kids they are busy educating by their millions of dollars.
13 Now they turn around to even make the kids lives
14 miserable. If it is to be this way, why do they
15 bother to try to help us. The government always say
16 they are here to help us. That is a lie.

17 Sure they have their buildings
18 here, but that is just buildings. The government is
19 not people, we don't see them. Already they have
20 spoiled our land. Look at the forest fires by too
21 much activity on the land by oil companies and seismic
22 exploration work. That destroys quite a lot. Now they
23 will use water to destroy the land. They never look at
24 the human side of it.

25 The government think that
26 they own the land. They are always after the people
27 to get their way. Now they are really after us to kill
28 us. The Bear River is the people's highway. We use it
29 to travel between Fort Franklin and Fort Norman in the
30 summertime. Plane fares are too high these days. Since

1 the earth is, there are lights all over from the sun,
2 the moon and the stars. It is not only from dams that
3 light is made up from.

4 We know the dam is for the
5 pipeline, it is not for us even if they say it will
6 give us electricity. And if they build a dam and we
7 are flooded out, where are our houses for them to wire.
8 And if it floods what will happen to us? Where are we
9 going to go? This is our home. Where our home is
10 they should leave us alone. What have we done to them
11 for them to do this to us?

12 We keep saying no, once we
13 say no it is final. That is one word for everybody.

14 Another point that they
15 brought out, which I think is very important is that
16 we have a lot of forest fires up there, every summer,
17 all along the way of the route of the Mackenzie River.
18 And the people very logically say, if a gas pipeline is
19 being built and gas is being flowed, we know that there
20 is a lot of forest fires and if it breaks at one point
21 and there is a forest fire just there, what is going
22 to happen?

23 There are a lot of things I
24 think I wanted to talk to you or say to you but I think
25 that I have just brought out the discrepancies, dis-
26 parities between having bread and carrying out all you
27 can do, and on the one side you have got brains and
28 everything else, and your own people have it but we
29 don't have bread to match up dollar for dollar for how
30 we are being used or to document our own.

1 We are not consulted in the
2 form that we should be consulted. The meetings are not
3 carried out in a way that people could respond. There
4 is discrepancies as to just being logical about many
5 things. And if you are going to be fair to us in the
6 communities, especially the settlements, then we must
7 see you, the people must see you, and know what you are
8 supposed to do.

9 THE COMMISSIONER: Thank
10 you very much, Miss Tobac.

11 Well, Mr. Goldie, you can
12 carry on now if you wish.

13 MR. GOLDIE: Mr. Commissioner,
14 I am sorry to go back to torturing some words again, I
15 would be glad to adopt Mr. Lueck's first suggestion
16 that many of the propositions that have been made to
17 you go beyond the terms of the Order-in-Council and
18 leave with you the submission that I left yesterday,
19 that I made yesterday, that the terms of the Order-in-
20 Council are complimentary to the jurisdiction of the
21 National Energy Board, and more importantly, reflect
22 the jurisdiction of the Minister.

23 I think the main point that
24 Mr. Lucas addressed to you was based on the proposition
25 that the Order-in-Council related to any pipeline or
26 any proposal, and from that, there followed in his
27 submission the fact that a number of other considera-
28 tions which might be part of some other proposal
29 properly should be examined by you.

30 I don't want to belabour this

1 proposition, but if we turn once again to the Order-in-
2 Council, we find in paragraph one these words, "Whereas
3 proposals have been made for the construction and
4 operation of a natural gas pipeline, referred to as the
5 Mackenzie Valley Pipeline," we are talking about one
6 pipeline.

7 Then in paragraph two, we
8 are talking about a right-of-way, "Whereas it is
9 desirable that any such right-of-way", that is to say
10 the right-of-way for the Mackenzie Valley Pipeline
11 referred to in paragraph one, it is appropriate to
12 consider the terms and conditions with respect to
13 various matters.

14 Now paragraph three is, in
15 my submission, very clear. You are "to inquire into and
16 report upon the terms and conditions that should be
17 imposed in respect of any right-of-way that might be
18 granted across Crown lands for the purpose of the
19 proposed Mackenzie Valley Pipeline." That is what we
20 are to look at and, with respect, that is what the
21 Order-in-Council requests your assistance for.

22 In sub-para (a) the reference
23 is to "the proposed pipeline", that is this particular
24 line that is in front of you, or the application in
25 respect of this line that is in front of you now.

26 Paragraph (b) states, "any
27 proposals to meet the specific environmental and social
28 concerns." Now those proposals are those put forward
29 by the applicant, that is to say the person who wants
30 to build the pipeline. I don't agree that the word

1 proposals in (b) has the same meaning as Mr. Lucas
2 suggested, namely that it means that anybody might
3 make proposals.

4 However I don't quarrel with
5 the proposition that anybody may make submissions with
6 respect to the adequacy of those proposals, those pro-
7 posals being the applicant's proposals. He said that
8 the grant of power is in the words in the preceding
9 paragraph, "to inquire into and report upon the terms
10 and conditions". I agree that is the substantive grant
11 of the -- or the substantive definition of the task
12 that you have been asked to embark upon, but they are
13 terms and conditions that should be imposed in respect
14 of any right-of-way that might be granted to the pro-
15 posed pipeline, not any right-of-way to anybody, but
16 any right-of-way to this particular applicant.

17 The Expanded Guidelines,
18 of course, as we have seen at some length, are regional,
19 but they too contemplate the co-ordinate jurisdiction
20 of the National Energy Board and the Minister of
21 Indian Affairs and Northern Resources, and to that
22 extent or to the extent that the latter has asked you
23 to assist him, your jurisdiction. I refer in particu-
24 lar to the footnote on page 9 of the Expanded Guidelines.
25 The footnote is to the paragraph numbered 1, which states:

26 "The Government of Canada is prepared to
27 receive and review applications to construct
28 one trunk oil pipeline and/or one trunk gas
29 pipeline within the following broad 'corridors'."

30 And the footnote reads:

1 "Applications are to be filed with the
2 National Energy Board for a Certificate of
3 Public Convenience and Necessity, and with
4 the Department of Indian Affairs and Northern
5 Development, under the Territorial Lands Act,
6 for tenure of land comprising the pipeline
7 right-of-way."

8 And that is exactly what the Order-in-Council is
9 directed towards.

10 Mr. Commissioner, I think
11 I would probably be exceeding the bounds of the right
12 of reply if I was to go through Mr. Lucas' submissions
13 with respect to each of the sections that he wishes
14 additional material on, but I do wish to say something
15 about three or four of those sections because he just-
16 fied his requests, certainly for the gas supply under
17 contract, the relationship of the cost of facilities,
18 supply areas, all to the proposition that it was de-
19 sirable to determine the economic rent available from
20 the extraction of this particular natural resource,
21 and he suggested that it would be a relevant matter for
22 you to determine how much of that economic rent should
23 be retained in the Territory.

24 With respect, I think Mr.
25 Lucas has confused the role of the people who own and
26 sell this gas with the applicant which transports it.
27 I mentioned yesterday that in order to conform to one
28 of the original guidelines, this application is that
29 of a contract carrier. That is to say, it transports
30 the gas for a fee.

1 What Mr. Lucas is referring
2 to is how much should the producers be assessed in terms
3 of royalties. That is where the question of what por-
4 tion of the economic rent the state should receive
5 should be addressed to. If I can put it in very simple
6 terms, you don't tax a railroad company by reference to
7 the profits made by its shippers, and this is exactly
8 what we are talking about here.

9 We are a shipper of gas and
10 the profits or the economic rent derived by the
11 producer is no measure of what compensation should be
12 paid for the use of Crown lands.

13 Now naturally the applicant
14 is going to have to pay taxes. Those taxes will be
15 reflected in its costs of service tariff and all of
16 those things can be laid out very easily without refer-
17 ence to the gas supply, without reference to markets
18 or market projections. Those matters, according to Mr.
19 Lucas' analysis are all directed to this question of
20 economic rent and that, with great respect, is something
21 for the producers.

22 Now I want to correct in that
23 respect, one misapprehension which if I was guilty of
24 it, I apologize. Miss Hunt suggested that I had
25 stated that the producers would be making applications
26 to the National Energy Board. That is not my under-
27 standing. The producers, with respect to gathering lines,
28 with respect to the gas processing plant, will be making
29 an application to the Minister of Indian Affairs and
30 Northern Development.

1 They make that application
2 under different regulations and in part, under another
3 Act, but it is to the same person as this application
4 is made to. Now what procedure the Minister will
5 follow with respect to those applications is his
6 business, if I may put it that way, but I didn't --
7 if I suggested that the applications in respect of the
8 gathering lines would be made to the National Energy
9 Board, I am sorry for that confusion.

10 Mr. Lucas referred to cost
11 of facilities. That certainly will be available to
12 you. Mr. Lucas argued very strongly on the question
13 of national impact. I don't think I can add anything
14 to what I said to you yesterday on that point, except
15 one thing. With respect, he said if the national im-
16 pact results in increased prices, that is a matter of
17 concern to the people in the Northwest Territories.
18 That argument, if I may put it this way, is exactly the
19 reason why national impact must be looked at nationally.

20 Increased prices don't stop
21 at a border within a country. If there are increased
22 prices resulting from a major industrial project which
23 is nation-wide in its impact, they will extend from
24 sea to sea and from the Arctic to the 49th parallel,
25 and that is the reason why they should be examined
26 nationally and not segmented and attempted to be dealt
27 with on a regional basis. But there are regional
28 impacts and they are for your consideration.

29 Mr. Lucas referred to, in his
30 further submission with respect to the scope of the

1 Inquiry, matters relating to the Guidelines and urged
2 upon you very strongly that further material should
3 be filed with respect to the Mackenzie Valley oil
4 pipeline. I think I can only say that a witness will
5 be called who will support the assertions made in the
6 exhibit and if you come to the conclusion that our
7 proposals and our evidence falls short of what the
8 Guidelines require, then you will be saying so, having
9 regard to paragraph (b) of the Order-in-Council.

10 I don't know, Mr. Commissioner
11 whether you wish any observation on the matters that you
12 left with us on the close of the hearing yesterday?

13 THE COMMISSIONER: No, I
14 think you can let me know in due course, your views
15 on those matters. Let me just ask a question about
16 the additional material Mr. Lucas said ought to be
17 filed with this Inquiry.

18 Phase Two of Arctic Gas'
19 filing includes a great deal of the material Mr. Lucas
20 spoke of, I assume?

21 MR. GOLDIE: I believe that
22 his request was couched in the terms of the exhibits
23 that we will be putting in, in the Phase Two filing,
24 yes.

25 THE COMMISSIONER: Well did
26 you say -- first of all, let me ask this question. Is
27 it your intention to file that material with this In-
28 quiry, or with the Energy Board merely?

29 MR. GOLDIE: With the Energy
30 Board merely. May I go back a step and start from the

1 considerations that were involved in how this material
2 was to be ordered or how it was to be structured.

3 As I have said before, there
4 are no regulations or information and there was no
5 information available with respect to what the Minister
6 would require for an application under the Territorial
7 Lands Act. On the other hand, the National Energy
8 Board's regulations and its Act, was there, and are
9 relatively clear.

10 The applicant also had
11 the Guidelines, and what it endeavoured to do was to
12 put the Guidelines, the Energy Board's requirements,
13 all together in a form that roughly speaking -- not
14 roughly, fairly precisely -- followed the regulations
15 of the Energy Board.

16 Now it seemed to it that
17 there was a reasonably logical division between what
18 the Minister would require in considering the terms and
19 conditions to be imposed on land tenure in the north,
20 and what he would not require. That division, very
21 largely, dictated the Phase One filing. Now there
22 was some doubt in the minds of the applicant's advisors
23 whether everything in Phase One was necessary for the
24 Minister, but the feeling was, why try and draw a line
25 at this point. We will file everything in Phase One
26 with the Minister and everything in Phase One with the
27 National Energy Board. But in both cases it was felt
28 that the material filed in Phase One was a fulfillment
29 of the socioeconomic and environmental matters and it
30 was hoped that the Energy Board's staff would get busy

1 on its consideration of that, and that the Minister's
2 staff would get busy.

3 The PhaseTwo filings, on the
4 other hand, seemed to the applicant, at that time, to
5 be almost wholly directed to matters which were the
6 consideration of the National Energy Board. Now I
7 don't want to suggest that there are hard and fast lines.
8 The applicant is desirous of providing and indeed must
9 provide you with every piece of information that is
10 necessary to enable you to make a report in the terms
11 of the Order-in-Council. On the other hand, it seems
12 very clearly a wasteful, duplication of effort for you
13 to get into the national impact of the applicant's
14 application.

15 THE COMMISSIONER: Yes, let
16 me interrupt you there.

17 MR. GOLDIE: I am going on
18 at great length on this and I wanted to get to that
19 point because that provided me with the example of we
20 had not planned on filing with this body the exhibit
21 dealing with national impact.

22 THE COMMISSIONER: Well I
23 propose when the preliminary hearings have been com-
24 pleted, which I think will be today, to consider all
25 the points that have been raised and in due course to
26 advise all of you about my own view regarding the
27 scope of this Inquiry and the rules of practice and
28 procedure that we will follow.

29 The material that you, with-
30 out in any way indicating whether I think any of that

1 material in your Phase Two filing ought to be produced
2 or not before this Inquiry, all I was getting at was
3 the question of timing. That material, I take it, has
4 not been filed with the National Energy Board and the
5 reason is that it is not ready.

6 MR. GOLDIE: That is correct.
7 I can't say that it isn't ready in total. Of course,
8 parts of it are ready right now, but the completion
9 of the material for the Phase Two filing is not yet
10 finished.

11 THE COMMISSIONER: You are
12 not in the position even to ask the National Energy
13 Board to set a date for hearings until you have com-
14 pleted that filing, I take it?

15 MR. GOLDIE: There were
16 preliminary -- both the National Energy Board and the
17 Federal Power Commission were informed of the progress
18 of work on the material to be filed in evidence. Both
19 bodies were asked if any objection would be taken to
20 a phased filing, and both bodies accepted phased filings.

21 As indicated yesterday the
22 Federal Power Commission and the Department of the
23 Interior have agreed on a common environmental impact
24 statement using Phase One material. I am not aware
25 of whether the Energy Board has done that but in the
26 preliminary discussion it was indicated that the Energy
27 Board's staff would indeed get to work on the material
28 that was before it.

29 Whether there would be
30 phased hearings was a question that was left open at

1 the time, and I have no information on that point.

2 THE COMMISSIONER: I see.

3 Well I have one other question, and that is when, if
4 you are at liberty to say, is it likely that this
5 Phase Two material would be ready for filing with the
6 National Energy Board? Once it is filed it is public
7 anyway.

8 MR. GOLDIE: Oh yes, sure.

9 That is no problem. The target that we have in mind
10 is September.

11 THE COMMISSIONER: Is there
12 anything else you wish to say, Mr. Goldie?

13 MR. GOLDIE: No, I am
14 afraid I have said enough.

15 THE COMMISSIONER: Does
16 anyone else have anything that he wishes to say before
17 we adjourn, Mr. Lucas?

18 MR. LUCAS: Yes, Mr. Com-
19 missioner. The Canadian Arctic Resources Committee,
20 for the record, wishes to inform the Commission as to
21 negotiations that have taken place among the various
22 environmental groups that will be appearing at the
23 main hearings and most of the native organizations
24 interested, and the subject of the discussions was the
25 need, as was mentioned earlier in CARC's submission,
26 for an independent third party review and assessment of
27 the applicant's application and particularly of the
28 environmental aspects of the application.

29 In this regard, CARC, as well
30 as the native groups, at previous hearing sessions have

1 indicated that funding will be required for properly
2 undertaking this environmental assessment and review.
3 Dr. Thompson made this point, particularly, at the
4 Yellowknife hearing. So in this regard a series of
5 discussions have been held between scientists and
6 lawyers working in the north and representatives of
7 the Indian Brotherhood of the Northwest Territories,
8 the Metis and Non-Status Native Association of the
9 Northwest Territories, the Inuit Tapirisat of Canada,
10 and the Committee for Original Peoples Entitlement
11 concerning this analysis and assessment of the
12 regional environmental, social and economic impact of
13 the proposed Mackenzie Valley Pipeline, but with parti-
14 cular reference to assessment of the environmental
15 impacts.

16 Following these discussions
17 it has been agreed that the Canadian Arctic Resources
18 Committee, through its scientific and legal resources
19 and its contacts with most of the native organizations
20 concerned with the pipeline, should play a co-ordinating
21 role in the establishment of a group to provide scien-
22 tific and technical support, both to the environmental
23 groups and to the native organizations. This would
24 assist these groups in assessing pipeline impacts in
25 the context of the Commission hearings.

26 The environmental organiza-
27 tions involved in these discussions include the Canadian
28 Nature Federation, the Federation of Ontario Naturalists,
29 Pollution Probe, the Canadian Environmental Law Associa-
30 tion as well as the Canadian Arctic Resources Committee.

1 The environmental groups are
2 also agreed that not withstanding the possible special
3 interests of each of these groups, the most effective
4 use of any available funding could be achieved through
5 a pooling of scientific and technical expertise, and
6 so to this end it was agreed among all of these
7 native and environmental organizations to support, first
8 of all, the establishment of an umbrella assessment
9 group to carry out studies of the application as re-
10 quired by both native and environmental organizations.
11 Secondly, to support an application to this Commission
12 for funding the work of this assessment group prior to
13 and during the course of the Commission hearings.

14 In this regard I should men-
15 tion specifically that the native organizations will
16 be making separate application for funding, and an
17 effort has been made to minimize any overlap that might
18 occur. But I must point out that in the native groups'
19 application provision will be made specifically for
20 environmental liasson individuals to work specifically
21 with the native groups and we would see these indivi-
22 duals acting as the liasson between the umbrella assess-
23 ment group and the native organizations.

24 Now the work of this assess-
25 ment group would be directed particularly toward,
26 first, providing the native people with necessary
27 technical and scientific expertise for a full assess-
28 ment of the environmental impacts of the pipeline
29 application, and secondly, assessment of the long and
30 short term impacts of the particular pipeline proposed

1 and associated facilities and developments.

2 Finally, a meeting will be
3 held following adjournment of these hearings with
4 representatives of a number of the groups I have al-
5 ready mentioned to further clarify this proposal and
6 in particular, further consultation will be held with
7 the Counsel of Yukon Indians. All of this will be
8 done, again, with a view to clarify the proposal and
9 to avoid unnecessary duplication in the applications
10 for funding.

11 THE COMMISSIONER: The
12 interests of all of these environmental organizations,
13 are related specially to environmental considerations,
14 but I take it from what you have said that the native
15 organizations will continue to represent the special
16 native interests that have been discussed throughout
17 the preliminary hearings and any umbrella organiza-
18 tion that is established by the groups that you have
19 referred to will not purport to represent those native
20 interests. Have I got this right?

21 MR. LUCAS: Well the umbrella
22 assessment group will not purport to represent the
23 native interests in any way, but the environmental
24 analysis and assessment done by the umbrella group will
25 be available to the native groups and in fact that will
26 be their primary source of information as to environ-
27 mental as opposed to social impacts of the proposed
28 pipeline.

29 THE COMMISSIONER: Thank
30 you, is there anything that anyone else wishes to say?

1 Chief Smith.

2 CHIEF SMITH: Thank you,
3 Mr. Commissioner. I would like to get a few things
4 here clarified.

5 First, it will be if the
6 pipeline was granted, permission was granted to build
7 this pipeline, the manpower that is going to be used.
8 As you know, the Indian people have no technical people
9 at all to take part in this, and I see that within a
10 few years that this pipeline is going to be built and
11 we have no time to educate our people, and yet I under-
12 stand that the oil company says that they are going
13 to have people that have been trained for this. Now,
14 which is only four or five would be trained, no doubt.

15 What I am worried about is
16 there is going to be contractors coming in bringing
17 their own people, and I have seen this happen before
18 with different contracts that have been held up through
19 the Yukon, that they bring in their own people and half
20 of our work force in the Yukon lie still. I would
21 like to put this down on the record, that the people
22 in the Yukon should be hired, same as in the Northwest
23 Territories.

24 One more thing is that I
25 have listened to all the technical -- you know you lost
26 me way and hell gone back the day before yesterday
27 when you first started. But anyway, putting two things
28 together, I fully supported the lady that made this
29 comment about people not being informed about when the
30 experts are coming into these villages. This has

1 happened in the north quite often.

2 We had oil companies going
3 up into Old Crow and they kept on doing it until I
4 got all the Ministers that are on the negotiating team
5 to go up there and see for themselves why the people
6 don't want any exploration going on at Old Crow. From
7 that time they withdrew their permits from the oil
8 company.

9 So there is going to be a
10 lot of debate. The pipeline is no value to the Indian
11 people at all, but the land means an awful lot to them,
12 because I, myself, have lived and made my living ever
13 since I was twelve years old, off the land in that
14 country, and I know what it means to me, and I am
15 speaking for people of my age.

16 So now I would like to thank
17 you for giving me this opportunity to speak. Thank
18 you very much.

19 THE COMMISSIONER: Thank
20 you sir. Is there anyone else who would like to say
21 anything?

22 Well I want to thank all of
23 you who have participated in these preliminary hearings
24 at Yellowknife, Inuvik, Whitehorse and Ottawa, and to
25 say how grateful I am for the thoughtful and helpful
26 submissions that have been made by all concerned. I
27 will have a transcript made of everything that has
28 been said here in Ottawa as well as the transcript
29 that already has been made of what was said in Yellow-
30 knife, Inuvik and Whitehorse, and I want to consider

1 all of the points that were raised, all of the sub-
2 missions that were made. In due course I will advise
3 all of those who have participated of the rules of
4 practice and procedure that we will follow in this
5 Inquiry and I will give you as well my views regarding
6 the proper scope of the Inquiry.

7 In due course, also, I will
8 advise you regarding the commencement of the hearings.
9 So I want to thank you again, and the Inquiry will
10 stand adjourned. I understand that coffee is avail-
11 able, so please be the guests of the Government of
12 Canada for a cup of coffee. Thank you.

13 (PROCEEDINGS ADJOURNED)
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